

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

**Wyatt Bury, LLC; Ballpark
Investments LLC d/b/a Hope and
Healing Counseling; Wyatt Bury;
Pamela Eisenreich; and State of
Missouri *ex rel.* Missouri Attorney
General Andrew Bailey,**

Plaintiffs,

v.

**City of Kansas City, Missouri and
Jackson County, Missouri,**

Defendants.

Case No. 4:25-cv-00084

Verified Complaint

Demand for Jury Trial

Introduction

Children and adults today are struggling with record levels of loneliness, hopelessness, and other mental-health issues. Those struggling often turn to licensed counselors who share their values and understand their goals. But Kansas City and Jackson County recently passed ordinances that ban purely consensual conversations—pure speech—about gender identity and sexual orientation. These ordinances not only require counselors to parrot these governments' preferred views on sexual ethics; they also ban different views. That violates the First Amendment. Government bureaucrats should not insert themselves into private counseling conversations, much less censor and redirect the exploration of truth on some of the most contentious issues of our day.

Plaintiffs are the State of Missouri and Christian licensed counselors who practice in the City and County. The Counselors help children, parents, adults, and couples navigate some of life's hardest issues. They regularly receive requests from parents to help minors confused about their gender identity and sexual orientation. The Counselors want to explore these topics freely with their clients. Sometimes, the minors ask for help identifying with their sex or redirecting their sexual desires toward the opposite sex.

But the City (K.C. Ord. § 50-234) and the County (Jackson Cnty. Ord. § 5575) censor these private conversations through their Counseling Ordinances. These ordinances prohibit the Counselors from helping minors achieve comfort between their gender identity and sex and reduce unwanted same-sex attraction. At the same time, they permit and encourage counselors who assist children in achieving the opposite goals. Thus, a teenage girl who struggles with her gender identity could obtain counseling encouraging her to remove her breasts to appear like a man. But she could not get counseling to help her pursue a self-selected goal of living consistent

with her sex. The Counselor's freedom to speak thus depends entirely on the content and message of their speech.

The City's Public Accommodation Ordinance (K.C. Ord. § 38-113) both compels *and* restricts speech on gender identity and sexual orientation. It requires the Counselors to provide counseling services to adults and children who wish to affirm views about sex and gender that conflict with the Counselors' religious beliefs. Practically, the Public Accommodation Ordinance forbids referrals for counseling when the counseling originally requested would otherwise violate the Counselors' religious beliefs. The Public Accommodation Ordinance even prevents the Counselors from following policies and practices consistent with their religious beliefs on human identity and sexuality and from explaining their reasons for offering only counseling tracking these beliefs.

All three of these Ordinances impose severe penalties. The City and County may impose fines between \$500 and \$1,000 each time a Counselor assists a minor with his or her goal of following a particular sexual ethic. K.C. Ord. §§ 50-234, 1-17; Jackson Cnty. Ord. §§ 5575, 5520. Under the Public Accommodation Ordinance, the City also may force the Counselors to pay damages and attorney's fees, and can lock them in jail for 180 days if they counsel consistent with their faith. K.C. Ord. §§ 38-35, 38-101(a), 38-206

The Counselors face an immediate threat. Counselor Eisenreich currently counsels minors struggling with gender confusion and unwanted same-sex attraction. Sometimes she helps her clients achieve their goals to change. Other times, she steers clear of critical conversations to avoid violating the Counseling Ordinances. The Counselors also regularly refer to other counselors adult and minor prospective clients who have beliefs about sexual orientation and gender identity inconsistent with the Counselors' religious beliefs. The Counselors also repeatedly chill their own

speech about sexuality and gender identity and operate their practices under constant threat of punishment.

But they shouldn't have to. The U.S. Constitution protects the freedom to speak and to hear—even in the counseling office and even when the message spoken is one that (though historically widespread) may now be disfavored by some governments. Government-mandated speech is especially egregious in the counseling office because the counseling relationship hinges on complete trust and transparency. Otherwise, governments could impose their chosen orthodoxy in thought, belief, and speech upon these intimate conversations. In the end, the First and Fourteenth Amendments leave the choice of what to say and to hear with the people—not the government. Our country is better off when people can express different views and pursue different goals, even when the government disagrees. The ordinances target speech, not conduct. For these reasons, this Court should declare the three Ordinances unconstitutional insofar as they prohibit pure speech and should preliminarily and permanently enjoin Jackson County and Kansas City from enforcing them as well as granting the additional relief requested below.

Jurisdiction and Venue

1. This civil-rights action raises federal questions under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.
2. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343.
3. This Court has authority to award the requested (1) declaratory relief under 28 U.S.C. § 2201–02 and Fed. R. Civ. P. 57; (2) injunctive relief under 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; (3) the requested damages under 28 U.S.C. § 1343; and (4) costs and attorneys' fees under 42 U.S.C. § 1988.
4. Venue is proper here under 28 U.S.C. § 1391(b) because the events and omissions giving rise to the claims substantially occur within the Western District of

Missouri; the effects of the challenged ordinances are felt here; Defendants can and do perform official duties here; and Defendants reside here.

Plaintiffs

5. The State of Missouri is a sovereign State of the United States of America.

6. Andrew Bailey is the 44th Attorney General of the State of Missouri.

7. Attorney General Bailey is authorized to bring actions on behalf of Missouri that are “necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary.” Mo. Rev. Stat. § 27.060.

8. The State of Missouri, on the relation of the Attorney General, brings this action to put an end to Jackson County’s and Kansas City’s campaigns to stifle protected speech with which those local governments disagree.

9. Missouri, through its Attorney General, has the authority to bring this action because this suit alleges that the County and City have, are, and will keep engaging in suppressing protected speech with which they disagree, which is activity in which the State has an interest under Mo. Rev. Stat. § 27.060.

10. Missouri “has a quasi-sovereign interest in the health and well-being—both physical and economic—of its residents in general.” *Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel., Barez*, 458 U.S. 592, 607 (1982).

11. As the U.S. Supreme Court has “long recognized[,] a State’s interests in the health and well-being of its residents extend beyond mere physical interests to economic and commercial interests.” *Id.* at 609.

12. Here, Missouri is particularly concerned about the Ordinances suppressing speech in the context of minors with gender dysphoria. As the four-year,

400-page Cass Report from the United Kingdom's National Health Service makes clear, transgender identity in minors is caused at least in part by social circumstances. There is also substantial reason to believe that social transition and pharmacological interventions *cause* transgender identity in minors.

13. Censoring counselors and other speakers, as the ordinances do, harms minors by blocking the speech that would rectify the problems caused by these previous interventions. As even pro-transition activists like the World Professional Association for Transgender Health have acknowledged, this kind of speech can help to resolve gender dysphoria because through this speech many individuals can integrate their gender identity with their sex and avoid the need to undergo surgeries or pharmacological interventions.

14. Missouri sues to vindicate its interest in securing its residents from the harmful effects of the County's and City's actions, as federal laws like the First Amendment "create interests that a State will obviously wish to have accrue to its residents." *Alfred L. Snapp*, 458 U.S. at 608.

15. Therefore, Missouri "ha[s] an interest, independent of the benefits that might accrue to any particular individual, in assuring that the benefits of the federal system are not denied to its general population." *Id.*; *see also People by Vacco v. Mid Hudson Med. Grp., P.C.*, 877 F. Supp. 143, 146 (S.D.N.Y. 1995).

16. The First Amendment, incorporated through the Fourteenth Amendment, creates benefits and alleviates hardships for all by providing for freedom of speech. Thus, Missouri seeks to vindicate its quasi-sovereign interest in ensuring its residents are included in the benefits that flow from, and hardships alleviated by, the First Amendment.

17. There are a substantial number of persons who engage in counseling in Missouri. On information and belief, there were approximately 847 counselors and 1,288 provisional counselors licensed in Missouri. Further, the Counseling

Ordinances are not limited to counselors but also apply to psychologists (1,878 licensed in Missouri), provisional psychologists (42 licensed in Missouri), social workers (10,962 licensed in Missouri), psychiatrists (1,851 licensed in Missouri), therapists (570 licensed in Missouri), provisional therapists (50 licensed in Missouri), behavior analysts (1,185 licensed in Missouri), provisional behavioral analysts (113 licensed in Missouri), physicians (28,762 M.D.s and 5,182 D.O.s licensed in Missouri), and other licensed professionals covered by Chapters 334 and 337 of the Missouri Revised Statutes, including assistant physicians, midwives, anesthesiologist assistants, physical therapists, physical therapist assistants, athletic trainers, and respiratory care therapists. Jackson Cnty. Ord. § 5575.1.d, .2; K.C. Ord. § 50-234(b)(4), (c).

18. Missouri citizens who are counselors, provisional counselors, psychologists, provisional psychologists, social workers, psychiatrists, therapists, provisional therapists, behavior analysts, provisional behavior analysts, physicians, and other licensed professionals under chapters 334 and 337 of the Revised Statutes of Missouri, and who are similarly situated to the Counselor Plaintiffs in this case, are similarly affected by the ordinances challenged in this case. *See infra*.

19. Missouri also has a sovereign interest in this case, for two reasons.

20. First, Missouri statutes ban drugs and surgery for minors that push them to live inconsistent with their sex through transition procedures. Mo. Rev. Stat. § 191.1720.

21. For that reason, Missouri has an interest in ensuring that counselors have the freedom to discuss gender dysphoria with their minor clients to help those clients navigate their gender identity without resorting to experimental drugs and surgery.

22. The Counseling Ordinances prevent minors from speaking with counselors to help these minors become more comfortable with their sex by aligning their identity with their sex.

23. This leaves minors in Kansas City and Jackson County who are experiencing gender dysphoria and who are seeking help to resolve that gender dysphoria in a way that aligns their identity with their sex without an option to seek counseling from counselors who could help the minor clients pursue the outcome the minor clients seek. That is contrary to the purpose of Missouri's law, which is intended to help these minors.

24. Thus, the Kansas City and Jackson County ordinances harm Missouri's sovereign interest in their law favoring private conversations with professionals that can help minors experiencing gender dysphoria.

25. Second, Missouri has a sovereign interest in this case because it has passed statutes creating a licensing regime for counselors, psychiatrists, psychologists, therapists, social workers, doctors, and others in Chapters 334 and 337 of the Missouri Revised Statutes.

26. Missouri has a sovereign interest in determining the requirements for these professions.

27. When Kansas City and Jackson County pass ordinances like the ones here that set additional requirements or prohibitions for professions regulated by the State (especially if those requirements violate the law), the State of Missouri has a sovereign interest in challenging those additional requirements or prohibitions.

28. Here, Kansas City's and Jackson County's requirements and prohibitions on counselors, psychiatrists, psychologists, therapists, social workers, doctors, and others in Chapters 334 and 337 of the Missouri Revised Statutes violate these providers First and Fourteenth Amendment rights.

29. Thus, Missouri has a sovereign interest in challenging Kansas City's and Jackson County's requirements and prohibitions.

30. Wyatt Bury is a Licensed Professional Counselor.

31. He is the sole owner, member, manager, and employee of Wyatt Bury, LLC, a limited liability company organized under Missouri law. He operates his professional counseling practice through this company.

32. Plaintiff Pamela Eisenreich is a Licensed Professional Counselor.

33. She is one of two owners, members, and managers of Ballpark Investments LLC, a limited liability company organized under Missouri law, which does business as Hope and Healing Counseling. She operates her professional counseling practice through this company, and she has complete, full, and final authority to adopt policies and practices related to licensed professional counseling.

34. The Counselors are licensed by the State of Missouri.

35. The Counselors practice and do business within the geographical boundaries of Kansas City.

36. Bury practices and does business also within the geographical boundaries of Jackson County.

Defendants

37. The City is a charter city with the authority to enforce the Counseling Ordinance and Public Accommodation Ordinance. Mo. Rev. Stat. §§ 82.010, 82.300(1); K.C. Charter § 102; K.C. Ord. § 38-206(b).

38. The City investigates, enforces, and prosecutes violations of these ordinances through the City Attorney, the Civil Rights and Equal Opportunity Department, and the Human Rights Commission. K.C. Charter § 407(1), (3); K.C. Ord. §§ 2-301(6), §§ 38-21(2), (4), (6), 38-23(a)–(e), 38-25(d), 38-27, 38-31, 38-43(e), (k), (l), (o).

39. The County is a home-rule chartered county with the authority to “be sued” and to enforce the Counseling Ordinance. Jackson Cnty. Charter Art. I §§ 1, 3–5.

40. The County investigates, enforces, and prosecutes the ordinance through the County Executive, the County Counselor, and the County Prosecutor. Mo. Rev. Stat. §§ 56.070(1), 56.640(1); Jackson Cnty. Charter Arts. I §§ 1, 3–5, III § 5, V § 8; Jackson Cnty. Ord. §§ 1805, 1809.

Factual Background

Wyatt Bury counsels clients through his practice, Wyatt Bury LLC.

41. Bury is a Christian.

42. Through Wyatt Bury LLC, he provides counseling for children, adults, couples, and families on a wide range of issues, including depression, anxiety, relationships, trauma, and others.¹

43. Based on Bury’s religious beliefs and specific expertise, he also offers integrated Christian counseling.

44. Through this counseling, Bury combines his professional training and expertise with his Christian beliefs to provide counseling that integrates scientific observation and research with biblical principles, respects the authority of the Bible, expects God to intervene in individuals’ lives, and acknowledges that Christian communities offer a source of personal transformation.

45. Bury is also a Certified Life Coaching Practitioner. Bury provides Christian life coaching where he helps individuals, couples, and groups work towards transforming their lives to align with a Christian worldview by praying, uniting their

¹ This complaint will refer to Bury and Wyatt Bury LLC collectively as “Bury.”

beliefs, desires, and emotions with God's design for humanity, and otherwise leading a life consistent with the Bible's teachings.

Pamela Eisenreich counsels clients through Hope and Healing Counseling.

46. Eisenreich is a Christian.

47. Through Hope and Healing Counseling, Eisenreich provides counseling to minors, adults, and couples on various issues, including grief and loss, abuse recovery, cognitive behavioral therapy, sexual abuse, anger management, addictions, co-dependency, anxiety, post-traumatic stress, and marriage.²

48. Over the years and presently, she has counseled minor and adult clients who identify as gay, lesbian, non-binary, transgender, pansexual; who present with other sexual orientations or identify as a sex other than their sex; or who experience distress relating to their gender identity and sexual orientation.

The Counselors provide counseling consistent with their religious beliefs.

49. The Counselors counsel consistent with their religious beliefs.

50. Those religious beliefs shape how they view the world, approach counseling, view healthy and meaningful relationships and lifestyles, and believe their clients will overcome challenges to lead fulfilling lives.

51. The Counselors' religious beliefs include that God created the world and everything in it, that each person has inherent value and dignity, that sexual relationships should be reserved for marriage between one man and one woman, that sex is a biological reality that cannot be chosen or changed, and that living inconsistent with these principles is harmful.

52. While the Counselors hold these beliefs, they do not impose their Christian faith on their clients or require their clients to share their faith.

² This complaint will refer to Eisenreich and Hope and Healing Counseling collectively as "Eisenreich."

53. They provide counseling to Christian and non-Christian clients.
54. Regardless of the clients' religious beliefs, the Counselors approach how they provide their counseling services consistently.
55. The Counselors meet with prospective clients to discuss the clients' goals and desires for the counseling.
56. The prospective clients voluntarily set their own goals and consent to the Counselors' counseling throughout the counseling relationship.
57. The Counselors have never and would never provide counseling to a client who did not give informed consent or where the counseling was provided involuntarily.
58. If the clients decide to move forward, the Counselors schedule an initial meeting.
59. Most of the time, the Counselors communicate with their clients either during their first meeting or before that meeting occurs about whether the clients would like to integrate faith with their counseling.
60. Many of the Counselors' clients choose to do so and request the Counselors' services because they share the Counselors' religious beliefs.
61. Those clients often desire to meet their goals with a counselor who understands their faith convictions, relates to those convictions, realizes the fundamentally important role that faith can play in transforming lives, and can help them align their actions and feelings with their faith to accomplish their goals.
62. The Counselors' clients often share the Counselors' beliefs about sexuality and gender identity and may request that the Counselors work with them to help them conform their identity, sexuality, and sense of self to their religious beliefs.

63. The Counselors then engage with those clients in a way that is explicitly guided by mutual faith convictions and the client's desire to live a life of integrity within their faith.

64. The Counselors also have seen clients who decline to integrate faith and counseling or do not share their religious beliefs.

65. In those circumstances, the Counselors provide their counseling services without explicitly referencing their faith or imposing their views.

66. The Counselors provide counseling by listening, talking with their clients, leading them in exercises, and asking probing questions to aid the clients' self-discovery.

67. The Counselors create a safe environment for each client to engage in self-exploration by developing a personal relationship with him or her.

68. The Counselors form relationships with their clients to help them reflect on their identity and beliefs, identify personal goals that may not have been immediately clear to them, and share sensitive and intimate details.

69. Once that relationship is formed, the Counselors work collaboratively with their clients to accomplish the clients' objectives.

70. Although the Counselors' counsel in a collaborative manner, their clients rely on them to guide the conversations and expect them to offer advice, guidance, or suggestions about how to address the clients' struggles.

71. The goal of the Counselors' approaches is always to facilitate speech, encourage conversations, enable their client to consider or approach their struggles in a different way, produce self-healing, and prompt the clients to discover and share additional insights with the Counselors.

72. Given their expertise, the Counselors counsel minors, which involves close and ongoing interactions with the minor and his or her parents.

73. Although the parents' wishes may overlap with their children's, the Counselors' approach is to support the minor clients to achieve their own self-selected goals through their own personal exploration and development.

74. While in most cases the minors will initially attend on their parents' prompting, the Counselors will only continue to see them as clients if the minors are willing to work with the Counselors and participate voluntarily.

75. If an irreconcilable conflict over the counseling arises between the parent and the minor client (for example, the parents want their child to attend counseling, but the child no longer consents to the counseling), the Counselors will terminate counseling services with the minor.

76. For these reasons and others, the Counselors have a close, ongoing, and personal relationship with their clients and their clients' parents. No conflict of interest exists between the Counselors and their clients and their clients' parents, so long as the parents seek the same goals as the client.

77. Eisenreich has provided counseling to minors who express concern or confusion about gender identity, unwanted same-sex attraction, and other unwanted sexual behaviors, and who have been open to or desire to change, eliminate, or reduce their attractions, perceived identities, and related behaviors.

78. Eisenreich has also provided counseling to minors who identify as homosexual, bisexual, or transgender but who do not express an interest in exploring those topics, in which case Eisenreich addresses the other struggles the minor is facing in their lives and wants to resolve.

79. Whenever Eisenreich has a client who is willing to or interested in exploring their gender identity and that topic comes up, she works with that client to harmonize their gender identity to be consistent with their sex and to encourage, affirm, and support that client to live and act consistent with their sex.

80. The Counselors also provide pre-marital, marital, and couples counseling to adults consistent with their beliefs that marriage is the union of one man and one woman and that marriage is a gift from God.

81. The Counselors believe that by counseling their clients in these ways, they strive to improve their clients' lives.

The Counselors cannot provide counseling contrary to their religious beliefs.

82. The Counselors' religious beliefs not only inspire what they say—those beliefs also inform what they cannot say.

83. The Counselors only accept requests for counseling that are consistent with their religious beliefs and professional expertise and cannot provide counseling in a manner that violates their religious beliefs.

84. The Counselors do not provide marital or relationship counseling that sanctions sexual activity outside of marriage between one man and one woman (including the use of pornography) or encourages the pursuit of same-sex marriage or same-sex romantic relationships.

85. The Counselors likewise do not promote or encourage clients' attempts to act or identify contrary to their sex, such as attempts to social transition or to use drugs and procedures to alter their bodies to appear like the opposite sex.

86. The Counselors do not provide the counseling described in paragraphs 84–85 because providing such counseling would promote activities, behaviors, and identities contrary to their beliefs and express messages contradicting what the Counselors want to and do promote elsewhere.

87. For this reason, it is the Counselors' policy and practice to offer and provide pre-marital, marital, and relationship counseling that affirms marriage between a man and a woman, and to offer and provide counseling on gender identity that encourages clients to identify consistent with their sex.

88. The Counselors' policy and practice is to decline any counseling requests that would contradict these beliefs.

89. Likewise, while the Counselors have a pattern and practice of referring to their clients with pronouns consistent with their sex (he/him pronouns for male clients and she/her pronouns for female clients), the Counselors would not use pronouns inconsistent with their clients' sex because doing so would violate their beliefs that God created humans as either male or female, that sex cannot be changed, and that they must be truthful in their communications with their clients.

90. Whenever the Counselors receive a request that they cannot fulfill because of their religious beliefs or because the request asks for counseling beyond their competence, they generally try to refer that request to another counselor, or, in the case of pronouns, using first names or working with the client on an appropriate and respectful but honest accommodation.

91. The Counselors' policy and practice of offering counseling consistent with their religious beliefs and declining requests that violate those beliefs are decisions that are never about the person requesting those services, but are instead based on an objection to promoting, encouraging, or supporting ideas that violate their beliefs.

92. The Counselors gladly serve clients regardless of their personal characteristics, including those who identify as LGBT.

93. For example, Bury would and Eisenreich does provide counseling to clients who identify as LGBT to assist them with trauma, abuse, depression, substance abuse, anxiety, and other issues.

94. When evaluating whether a counseling request is consistent with their religious beliefs and competence, the Counselors' pattern and practice is to consider the content and subject matter of the requested counseling and whether that content

or subject matter would require them to affirm, promote, or support a message or idea they oppose, not to consider the identity of the person who requests the counseling.

Sexuality and gender identity are topics of intense international debate.

95. The Counselors have followed the debate in society and within the counseling profession about the definition of marriage, sexual orientation, and gender identity, and how to address these topics.

96. Based on the Counselors' experiences within their practices and their observations of media reports, professional studies, and other sources of information, the Counselors believe that there are increasing numbers of young people struggling with questions of gender identity and sexual orientation and of parents seeking help for their children struggling with these questions.

97. Some young people wish to explore whether it is possible to alter their confusion over their gender identity, to achieve comfort and live consistent with their sex, to avoid the lifetime consequences associated with acting contrary to one's sex, to alter their same-sex attraction, and to live consistent with the belief that marriage is the union of one man and one woman.

98. There is an ongoing debate within the medical field and society about how to best treat children who identify as a gender contrary to their sex or experience gender dysphoria (an incongruence between their gender and sex).³

99. Minors' gender identity, sexual orientation, and sexual behavior can and sometimes do change over time.

100. The harms of physically altering one's body to appear as the opposite sex include sterilization, lifelong medical hormonal therapy, increased risk of heart attacks, lung and liver failure, and other permanent damage.

³ *E.g.*, Pamela Paul, *As Kids, they thought they were trans. They no longer do.* (Feb. 2, 2024), <https://www.nytimes.com/2024/02/02/opinion/transgender-children-gender-dysphoria.html>.

101. For example, some individuals who complete surgery to stop their natural biological development exhibited a rate of completed suicide 19 times higher than the control group, suicide attempts at a rate 7.6 times higher, and hospitalization for any psychiatric condition at a rate 4.2 times higher.

102. Psychotherapy has been overshadowed by a polarized debate on “conversion practices.” An independent policy review commissioned by the English National Health Service has noted the urgent and unmet need for mental health services to help those struggling with gender confusion.⁴ Dr. Hilary Cass submitted her final report and made recommendations to NHS England in her role as the Chair of the Independent Review of gender identity services for children and young people.

103. This report recognized that methods like talk therapy, where young people can explore their confusion, can “help alleviate their distress,” and that “[i]t is harmful to equate this approach to conversion therapy as it may prevent young people from getting the emotional support they deserve.”⁵ Indeed, recent studies show that some minors who desire change and seek counseling “are placed at a much lower suicidal risk.”⁶ This shows that when minors have the opportunity to discuss their confusion, it helps them work through their issues without turning to practices like self-harm.

104. Gender identity is not fixed for life. The vast majority of children experiencing gender dysphoria who receive therapeutic support but do not socially transition cease to want to transition by puberty. Additionally, the vast majority of pre-pubertal children who suffer from gender dysphoria will become comfortable with

⁴ Dr. Hilary Cass, *Independent Review of Gender Identity Services for Children and Young People: Final Report* 13 (April 2024).

⁵ *Id.*

⁶ D. Paul Sullins, *Sexual Orientation Change Efforts Do Not Increase Suicide: Correcting a False Research Narrative*, 51 *Archives of Sexual Behavior* 3377 (Sept. 2022).

a gender identity congruent with their sex by young adulthood, if they are not encouraged as children to identify contrary to their sex.

105. In fact, up to 80–95% of children experiencing gender dysphoria will desist by the time they reach adulthood.

106. By contrast, children who socially transition are more likely to proceed toward a medical pathway. That can lead children to life-altering—and lifelong—interventions, including puberty blockers, cross-sex hormones, and surgeries.

107. Counseling a minor to identify as a sex other than their biological sex is a form of social transitioning.

108. Countries around the world are recognizing the harms of socially and medically transitioning children to identify contrary to their sex.

109. A recent report publicized that there is no reliable evidence that “social transition,” such as using pronouns, restrooms, or dressing as the opposite sex, improves mental health for children. Worse still, evidence suggests social transition harms children by increasing their odds of persisting in a transgender identity, of taking hormones to interfere with normal development, and even of undergoing experimental surgery.⁷ In fact, the English National Health Service study shows that the research on youth transgenderism is “an area of remarkably weak evidence.”⁸

110. Denmark has limited children’s access to puberty blockers, hormones, and surgeries because of the “medical and ethical uncertainties of providing minors with profound, life-altering interventions [with] very limited understanding of the

⁷ Cass *supra* n. 4.; see Ruth Hall, et al., *Impact of social transition in relation to gender for children and adolescents: a systematic review*, 109 *Archive Disease Childhood* (April 9, 2024).

⁸ Cass *supra* n. 4.

epidemiological shift in the population presenting for care, the growing rates of detransition, and the profound uncertainty about long-term outcomes.”⁹

111. Alberta, Canada announced new policies and guidelines that also ban most children’s access to puberty blockers, hormones, and surgeries.¹⁰

112. England ordered the world’s largest gender-identity clinic to close after an independent review found that systematic failures placed children at risk of harm.¹¹

113. Increasingly, men and women who transitioned to present as a gender identity contrary to their sex have publicly spoken out regretting their choice, reclaimed a gender identity consistent with their sex (known as “detransitioning”), and filed medical malpractice lawsuits against medical organizations and providers involved with their transition.¹²

114. Closer to home, a clinic in Missouri that used drugs and procedures to alter children’s natural biological development is under intense scrutiny for misleading the public and failing to provide sufficient information to children and their parents about harmful effects of these procedures.¹³

⁹ *Denmark Joins the List of Countries That Have Sharply Restricted Youth Gender Transitions*, SEGM (Aug. 17, 2023), <https://perma.cc/D9XL-73YK>.

¹⁰ *A List of Alberta’s New Policies on Gender and Sexuality*, The Canadian Free Press (Jan. 31, 2023), <https://bit.ly/3CSMWJb>.

¹¹ Jasmine Andersson and Andre Rhoden-Paul, *NHS to close Tavistock child gender identity clinic*, BBC (July 28, 2022), <https://www.bbc.com/news/uk-62335665>.

¹² See Complaint, *Ayala v. American Academy of Pediatrics*, PC-2023-05428 (Oct. 23, 2023), <https://bit.ly/42GY1rq>; Jesse Singal, *When Children Say They’re Trans*, The Atlantic, July/August 2018, <https://bit.ly/3CHx7Fe>.

¹³ See Reed Affidavit, https://ago.mo.gov/wp-content/uploads/2-07-2023-reed-affidavit-signed.pdf?sfvrsn=6a64d339_2; Jamie Reed, *I Thought I was Saving Trans Kids. Now I’m blowing the Whistle*, The Free Press (Feb. 9, 2023), <https://www.thefp.com/p/i-thought-i-was-saving-trans-kids>.

115. Recognizing these harms, Missouri recently passed the SAFE Act to prohibit health-care providers from providing drugs or procedures to minors to alter their bodies to reflect their perceived gender identity. *See* Mo. Rev. Stat. § 191.1720.

116. A circuit court in Missouri recently upheld the Act, after holding a nine day trial and concluding that there is “an almost total lack of consensus as to the medical ethics of gender dysphoria treatment,” that “the credible evidence shows that a vast majority of children who are diagnosed with gender dysphoria outgrow the condition,” and that “there is a substantial medical dispute about the causes and treatments of gender dysphoria” which “has become more fractured in the last year, with even more medical authorities questioning the evidence for these interventions.” *Noe v. Parson*, Cole County Circuit Court Case No. 23AC-CC04530, Judgment, Nov. 24, 2024, Pages 2–3, <https://bit.ly/4hMwf0Z>.

117. In recent years, twenty-six states have banned or restricted medical transitions for minors.¹⁴

118. But governments like the City and County take a different position on gender identity and sexuality, supporting efforts to alter children’s bodies to reflect their perceived gender identity and promote same-sex attraction.

¹⁴ *See* Ala. Code § 26-26-4; Ariz. Rev. Stat. § 32-3230; Ark. Code § 20-9-1502; Fla. Admin. Code r. 64B8-9.019; Ga. Code § 31-7-3.5; Idaho Code § 18-1506C; Ind. Code § 25-1-22-13; Iowa Code § 147.164; Ky. Rev. Stat. § 311.372; La. Stat. § 40:1098.2; Miss. Code §§ 41-141-1–9; Mo. Rev. Stat. § 191.1720; Mont. Stat. §§ 50-4-1001–06; Neb. Rev. Stat. § 72-7301–07; N.C. Gen. Stat. §§ 90-21.150-54; N.D. Cent. Code. § 12.1-36.1-02; N.H. Rev. Stat. § 332-M:1–5; Ohio Rev. Code §§ 3129.01-06; Okla. Stat. tit. 63, § 2607.1; S.C. Code § 44-42-320; S.D. Codified Laws §§ 34-24-33–38; Tenn. Code § 68-33-101; Tex. Health & Safety Code §§ 161.701–06; Utah Code § 58-68-502(1)(g); W. Va. Code § 30-3-20; Wyo. Stat. § 35-4-1001; *see also* Amy Harmon, *These 26 States have Restricted Gender-Transition Treatments for Minors Since 2021*, *New York Times* (Dec. 4, 2024), <https://bit.ly/3CQ8NAX>.

119. For example, as Missouri considered the SAFE Act, the City passed Resolution Number 230385, declaring itself to be a “Safe Haven for Gender-Affirming Healthcare through adoption of a Gender-Affirming Healthcare Policy.”

120. During consideration of the resolution, the City’s Chief Medical Officer explained that the City considers adult and minor counseling to be a type of “gender-affirming medical care.”¹⁵

121. Councilwoman Andrea Bough co-sponsored the resolution and explained that it “protect[s] the sanctity of a family, an individual, and their ability to make decisions with their physician it leaves that decision with that child and their parents What this does is to say to our community that ... we support the decisions that you are going to be making in private with your physicians.”¹⁶

122. She later noted that “it is not an issue politicians should be in, it should be an issue that is saved for families, their physicians, and a decision that politicians should not make.”¹⁷

123. Councilman Eric Bunch co-supported the resolution because “these types of decisions should be things that are ... decided upon by the parents in consultation with medical professionals ... who specialize in this ... and that’s what this resolution is attempting to do, is to say that this should be the domain of parents, their children, and their doctors ... what we’re saying here is we’re not the experts. We’re ceding this decision over to parents to consult with the experts.”¹⁸

124. As the Counselors observed similar trends on gender identity and sexual orientation within the City and County and elsewhere, they became aware of the

¹⁵ Transportation, Infrastructure and Operations Committee at 45:03–45:53 (May 10, 2023), <https://bit.ly/3Q8DzrS>.

¹⁶ Council Legislative Session at 21:25–22:15 (May 11, 2023), <https://bit.ly/4jRzJB1>.

¹⁷ Transportation, Infrastructure and Operations Committee at 59:49–57 (May 10, 2023), <https://bit.ly/3Q8DzrS>.

¹⁸ *Id.* at 56:21–57:12.

City's and County's ordinances that regulated and restricted their ability to counsel consistent with their religious beliefs. The Counselors also became aware of counselors and other professionals who were being threatened with severe penalties under similar ordinances and laws.¹⁹

125. The Counselors realized that they face a credible threat and substantial risk that they will be investigated and prosecuted under these ordinances for counseling according to their religious beliefs.

The Counseling Ordinances apply to the Counselors.

126. The City passed its Counseling Ordinance on November 14, 2019. A true and correct copy of this ordinance is attached as Exhibit 1.

127. The County passed its Counseling Ordinance on April 3, 2023. A true and correct copy of this ordinance is attached as Exhibit 2.

128. The City's and County's Counseling Ordinances are similar and prohibit any "provider" from engaging in what those governments describe as "conversion therapy or reparative therapy" with a minor. K.C. Ord. § 50-234(b)(4), (c); Jackson Cnty. Ord. § 5575.1(d), .2.

129. "Conversion Therapy or Reparative Therapy" is broadly defined well beyond conduct to include pure speech: "any practice or treatment that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender" but does not "include

¹⁹ For general reports on these trends, see, e.g., Makenzie Koch, *Jackson County unanimously passes conversion therapy ban*, Fox 4 (Apr. 3, 2023), <https://bit.ly/3ErxiFc>; *Kansas City bans gay conversion therapy*, AP News (Nov. 14, 2019), <https://bit.ly/42GWMZi>; Drew Mikkelsen, *Pierce County counselor appealing federal court ruling on conversion therapy*, K5 (Oct. 15, 2021), <https://bit.ly/4hsb6cu>; Casey Leins, *States that have banned conversion therapy*, U.S. News (Apr. 11, 2019), <https://bit.ly/42LRmfv>.

counseling that provides support and assistance to a person undergoing gender transition, or counseling that provides acceptance, support and understanding of a person or facilitates a person’s coping, social support, and development, ... *as long as such counseling does not seek to change sexual orientation or gender identity.*” K.C. Ord. § 50-234(b)(1) (emphasis added); Jackson Cnty. Ord. § 5575.1(a).

130. The County also defines conversion therapy to be “any therapeutic intervention imposed with the intent of promoting a particular sexual orientation and/or gender as a preferred outcome.” Jackson Cnty. Ord. § 5575.1(a).

131. “Provider” means “any licensed medical or mental health professional including, but not limited to, licensed professional counselors, licensed psychologists, licensed clinical social workers, provisional licensed professional counselors, provisional and temporary licensed psychologists, licensed and provisional licensed marital and family therapists, psychiatrists, certified substance abuse counselors, certified school counselors, behavior analysts, and any professional licensed under chapters 334 and 337 of the Revised Statutes of Missouri.” K.C. Ord. § 50-234(b)(4); Jackson Cnty. Ord. § 5575.1(d).

132. The City and County intend to enforce the Counseling Ordinances and created robust enforcement mechanisms through the City Attorney, the County Executive, the County Counselor, and the County Prosecutor.

133. For example, County Legislator Manny Abarca IV (who sponsored the County’s Counseling Ordinance) explained that the County “spent a lot of time on the process for” individuals to “submit the violations for a penalty to be levied” and “worked with the prosecutor and the sheriff to make sure there is a process in place for individuals to actually submit their violation.”²⁰

²⁰ Steve Kraske & Claudia Brancart, *Jackson County Legislature may vote to ban anti-gay ‘conversion therapy’ on minors*, KCUR 89.3 at 4:05–4:10, 4:32–38 (Mar. 27, 2023, at 4:24PM), <https://bit.ly/412vMCi>.

134. Upon a violation, a provider may be liable for a fine between \$500 and \$1,000 per violation. K.C. Ord. § 50-234(b)(2) (incorporating K.C. Ord. § 1-17(a), which imposes fines of up to \$500); Jackson Cnty. Ord. § 5575.3 (incorporating Jackson County Ordinance § 5520, which imposes fines of up to \$1,000).

135. The Counseling Ordinances apply to the Counselors because they are licensed counselors, receive compensation for their services, and they practice within the City's limits and within the County's limits for Bury.

136. In fact, the County Ordinance does not even require compensation in order for it to apply. Jackson Cnty. Ord. § 5575.1(d).

137. The Counseling Ordinances regulate the Counselors' "therapy" or "practice or treatment" of providing counseling to minors on the topics of gender identity and sexual orientation. K.C. Ord. § 50-234(b)(1); Jackson Cnty. Ord. § 5575.1(a).

138. The Counseling Ordinances make no distinction between therapy, practices, and treatments that involve only conversations, and those that use physically intrusive or aversive techniques to alter gender identity or sexual orientation.

139. The Counselors do not engage in aversive techniques, nor are they aware of any other counselor who engages in such practices with clients seeking to reduce or eliminate their unwanted same-sex attractions, behaviors, or identity.

140. The City and County claim the authority to regulate all therapy, practices, and treatments within their geographic boundaries by labeling all such therapy, practices, treatments, and speech as "conduct," regardless of whether it only involves speech.

141. For example, the City Attorney testified at a committee hearing that the City’s Counseling Ordinance regulates “the delivery of a particular medical procedure to a minor ... if that is done in exchange for compensation of services.”²¹

142. The City Attorney then reiterated that the City’s Counseling Ordinance only regulates “particular professional conduct.”

143. “At the end of the day,” the City Attorney repeated, “we are regulating conduct on the part of a professional here.”

144. Other jurisdictions, including Washington, Colorado, St. Louis, Missouri, Michigan, Minnesota, Ohio, Wisconsin, and local governments in Florida claim their ordinances and laws like the Counseling Ordinances regulate conduct, even when the specific counseling at issue involves nothing but speech, conversations, and discussions.²²

145. For example, St. Louis interprets its ordinance to regulate “*medical treatment* ... even if performed *entirely* through speech” because such treatment “constitute[s] professional conduct subject to reasonable regulation in accordance with prevailing medical standards, without implicating the First Amendment.”²³

146. The Counseling Ordinances also use vague, overly broad, and arbitrary terms and phrases like “change,” “eliminate or reduce,” “sexual romantic attractions or feelings,” “preferred outcome,” “facilitate,” “development,” “behaviors,” “enduring

²¹ Finance, Governance and Public Safety Comm. at 1:06:30–1:07:36 (Nov. 6, 2019), https://kansascity.granicus.com/player/clip/11657?view_id=62&redirect=true&h=c1a0924ae4f6402be60c54e87f0182f0.

²² State Resp’ts Br. in Opp., *Tingley v. Ferguson*, 2023 WL 4457103, at *1 (22-942) (filed July 5, 2023); Appellees’ Reply Br., *Chiles v. Salazar*, 2023 WL 4132777 (22-1445 & 23-1002) (filed June 16, 2023); Appellee, Cnty. of Palm Beach, Fl.’s, Br., *Otto v. City of Boca Raton*, 2019 WL 2451113 (19-10604-A) (filed June 10, 2019). See Br. of Amicus Curiae Born Perfect in Supp. of Appellee’s Petition for Rehearing En Banc, 2020 WL 8182320 (19-10604) (filed Dec. 18, 2020).

²³ Br. of Amicus Curiae Born Perfect in Supp. of Appellee’s Petition for Rehearing En Banc, *Otto v. City of Boca Raton*, 2020 WL 8182320 (19-10604) (Dec. 18, 2020).

physical, romantic, and/or emotional attraction,” “sexual preference or practice,” and others, and rely on vague, expansive, and arbitrary definitions for “sexual orientation” and “gender identity.” K.C. Ord. § 50-234(b); Jackson Cnty. Ord. § 5575.1(a)–(e).

147. The City and County only regulate counseling conversations in this way because they disagree with certain content and viewpoints regarding gender identity and sexual orientation, and they seek to impose their favored views.

148. The City and County also knew that their Counseling Ordinances would exclusively affect providers with views on gender identity and sexual orientation similar to the Counselors’ views.

149. For example, County Legislator Abarca IV defined “conversion therapy” as a therapy “that is typically produced by religious organizations that can be an array of many different things.”²⁴

150. He recognized that the primary opposition to the County’s Counseling Ordinance came from “a segment of the Baptist church.”

151. He also explained that “you’re typically seeing religious or religious adjacent organizations doing these practices.”

152. For these reasons, the County rejected a proposed amendment that protected the First Amendment free speech and free exercise rights of providers. Proposed Diversity, Equity & Inclusion Floor Amendment III, Mar. 20, 2023.

153. As Legislator Abarca revealed, the legislature discussed “the religious component being added as an exemption, and ultimately we felt that to have the most impact we [should] leave that out because we’re talking about a clinic practice ... and

²⁴ Up to Date, *Jackson County legislature may vote to ban anti-gay ‘conversion therapy’ on minors*, NPR, at 2:00–10, 3:00–36, 5:32–6:24 (March 17, 2023), <https://www.kcur.org/podcast/up-to-date/2023-03-17/jackson-county-legislature-may-vote-to-ban-anti-gay-conversion-therapy-on-minors>.

I give ode to [the County Prosecutor who] said the reality that the church can do whatever they want however they want is just not true.”²⁵

154. The Counseling Ordinances exempt unlicensed counselors and other providers licensed under state law. Mo. Rev. Stat. §§ 334.010(4), 337.505(2), (6), (9); K.C. Ord. § 50-234(b)(4); Cnty. Ord. § 5575.1(d).

155. The City Attorney testified at a committee hearing that “there are a number of unlicensed therapists, religious leaders, folks who may engage in therapeutic or other types of treatments that folks are free to bring their minors to. This law doesn’t invade the purview of that.”²⁶

156. The City’s Counseling Ordinance exempts counselors from speaking about “conversion therapy” or “gender or sexual orientation conversion publicly and privately, including to their minors in forms other than therapy” and exempts conversion therapy provided without compensation. K.C. Ord. § 50-234(c), (2).

157. The City or County passed the Counseling Ordinances with no evidence that any minor in their jurisdiction has been harmed by talk-therapy that sought to change gender identity or sexual orientation.

158. The City and County held public hearings on the Counseling Ordinances on November 6, 2019, and March 16, 2023, respectively.

159. No witness testified about being harmed by voluntary talk therapy seeking to change their gender identity or sexual orientation as a minor in the City or County, as opposed to other forms of involuntary, aversive, and physically intrusive techniques not practiced by the Counselors.

²⁵ *Id.* at 6:24.

²⁶ Finance, Governance & Public Safety Comm. at 1:07:55–08:09 (Nov. 6, 2019), https://kansascity.granicus.com/player/clip/11657?view_id=62&redirect=true&h=c1a0924ae4f6402be60c54e87f0182f0.

160. But several witnesses testified to the personal benefits of how talk therapy and pursuing their faith helped them change their gender identity or sexual orientation to allow them to lead more fulfilling lives.²⁷

161. One witness said his decision to seek this help was the “best decision [he had] ever made;” a second witness said it had allowed her to live a life of “purpose, joy, and freedom”; and a third witness who had identified as gay and transgender as a teenager testified about how his interactions with other Christians and his faith helped him to overcome thoughts of suicide and drug addiction.

The Counseling Ordinances burden the Counselors’ practice and restrict their speech.

162. The Counselors have engaged in talk-therapy counseling that violates the Counseling Ordinances, intentionally censored their speech to avoid violating these ordinances, or intentionally refrained from speech regulated by the ordinances to avoid liability.

163. For example, Eisenreich has worked with minors who have expressed discomfort with their sex, struggles related to their gender identity, and feelings of unwanted same-sex attractions, and Eisenreich has raised these issues where the nature of the counseling required her to do so.

164. Some of these minor clients expressed a desire or willingness to address gender identity, sexual orientation, or their unwanted sex-same attractions and to change, reduce, or eliminate their gender identity or sexual orientation.

165. In one instance, Eisenreich counseled a minor girl who identified as a male.

166. The client’s parent sought Eisenreich specifically because she is a Christian counselor, asked Eisenreich to discuss the girl’s gender identity with her,

²⁷ *Id.* at 1:56:58–2:04:44.

and desired that Eisenreich discuss the girl's feelings about gender identity from a faith-based perspective.

167. The girl consented to Eisenreich's counseling, became a client, and voluntarily attended the counseling sessions for about a year.

168. The client asked Eisenreich to refer to the client using masculine pronouns.

169. Eisenreich explained that counseling depended on mutual respect, which meant that she would respect the client's views but not endorse them, and asked the client to respect Eisenreich's views even if the client disagreed.

170. Eisenreich explained her belief that God designed the client as a biological girl and that sex cannot be changed.

171. For that reason, Eisenreich declined to refer to the client using masculine pronouns in an effort to change the client's gender identity.

172. Likewise, whenever the topic of gender identity came up during their sessions, Eisenreich listened to her client and encouraged her about God's design for biological sex.

173. During the counseling relationship, Eisenreich and the client discussed the client's family situation and other complicated relational dynamics contributing to the client's distress.

174. Eventually, that counseling relationship ended.

175. In another instance, Eisenreich counseled a minor boy who experienced gender confusion and felt same-sex attracted.

176. The boy's parent encouraged him to receive counseling, the boy agreed, and Eisenreich provided counseling with the boy's consent.

177. During the counseling sessions, Eisenreich spoke with the client about his self-esteem and other issues.

178. Eisenreich explored how these issues contributed to the boy's sexuality and gender identity.

179. Eisenreich explored these topics in an effort to change, reduce, and eliminate the boy's desires for same-sex relationships and behaviors. Eisenreich sought to alleviate the boy's stress by helping him identify consistently with his sex so that he could one day pursue a marriage relationship with a woman.

180. In another instance, Eisenreich began counseling a minor boy who identified as a girl.

181. One of the boy's parents requested that Eisenreich provide a letter diagnosing the boy with gender dysphoria so that he could begin medical procedures at a local hospital to alter his body to appear like the opposite sex.

182. Eisenreich declined because she hoped the boy's expressed gender identity would be changed, reduced, or eliminated in violation of the City's Counseling Ordinance as interpreted by the City.

183. In another instance, Eisenreich began counseling a minor client who identified as a lesbian and expressed a desire to have a girlfriend.

184. The girl's parents asked Eisenreich to provide the counseling because they were concerned about the girl's sexual behaviors and wanted counseling from someone who shared their religious beliefs.

185. The girl consented to counseling and voluntarily attended.

186. Eisenreich and the client formed a trusting relationship where the client felt comfortable exploring the reasons for her same-sex attractions.

187. Eisenreich asked questions about and discussed the reasons why the client believed she was same-sex attracted.

188. Eisenreich asked these questions and discussed this topic because she desired to change, reduce, and eliminate the girl's sexual orientation based on her perceptions that the girl was identifying as lesbian for self-destructive reasons.

189. After Eisenreich addressed other sources of stress and anxiety in the client's life, the client explained that she no longer identified as a lesbian, expressed a desire to have a boyfriend, and presented as much more satisfied with her life.

190. Eisenreich realized that through her counseling, she had changed the client's sexual orientation and reduced the client's same-sex attraction in violation of the City's Counseling Ordinance as interpreted by the City.

191. In addition, Eisenreich has changed, reduced, or eliminated other forms of sexual behaviors, including the use of pornography and sexual activities with the opposite sex.

192. Oftentimes, these minors are motivated to change because they share Eisenreich's religious beliefs about sexuality, understand that sexual activity is only intended for opposite-sex marriage, and believe that they can lead more fulfilling lives if they align their sexual behavior with their religious beliefs.

193. Eisenreich has also intentionally refrained from engaging in certain topics on gender identity and sexual orientation when counseling minors to avoid liability under the City's Counseling Ordinance.

194. Eisenreich has likewise intentionally refrained from certain speech with minors to avoid liability under the City's Counseling Ordinance.

195. When Eisenreich feels comfortable that the client and the clients' parents will not file a complaint against her under the City's Counseling Ordinance, she will accept those clients who would like to work on these sensitive issues.

196. If she feels that a client may file a complaint against her under the City's Counseling Ordinance, she will refer the client to another counselor.

197. For example, Eisenreich counseled an eleven-year-old girl with her consent who identified as a boy and wanted to use a boy's name.

198. During their sessions, Eisenreich believed that the client's self-asserted gender identity came from relational issues with her parents and a feeling that her mother wished she was a boy rather than a girl.

199. But rather than discussing gender identity with the girl directly, which Eisenreich believed was the real source of tension, Eisenreich asked questions about self-esteem generally to avoid violating the City's Counseling Ordinance.

200. Doing so hampered Eisenreich's ability to help the client address what Eisenreich believed was the source of the client's conflict and stress.

201. Eisenreich also accepted a request from a parent asking her to counsel the parent's twelve-year-old daughter struggling with gender identity.

202. The girl attended the counseling session voluntarily and with consent.

203. During the first session, Eisenreich tried to explore the reasons for the client's gender dysphoria, but the client was resistant to discussing that topic.

204. Eisenreich therefore referred the client to another counselor after one session because it became clear to her that she could not counsel the client without violating the City's Counseling Ordinance.

205. But for the ordinance, Eisenreich would have more intentionally dug into the issues of gender identity with the client.

206. Eisenreich has also been limited in what she can say when vetting clients on the phone before she agreed to take them on as clients.

207. In one instance, Eisenreich was contacted by the parents of a minor child who struggled with gender identity. The parents sought help for their minor with these developing feelings. When discussing the issue, Eisenreich was limited in what she could say and what questions she could ask to avoid violating the Counseling Ordinance. But for the Counseling Ordinance, she would have asked the parents when these feelings started, how the feelings started, and to give more information

by expanding on the feelings their child was experiencing. But Eisenreich refrained from asking these questions to avoid violating the Counseling Ordinance.

208. Eisenreich has also declined requests to counsel minors on topics of gender identity, sexual behavior, or sexual orientation to avoid liability under the City's Counseling Ordinance.

209. For example, Eisenreich regularly receives requests from parents asking her to provide counseling for their minor children to address and change, reduce, and eliminate their same-sex attractions or gender identity.

210. Eisenreich received approximately ten such requests in the last year or so.

211. Whenever Eisenreich receives such a direct request or an intake call from a parent whose minor child is struggling with sexual orientation or gender identity, she typically refers the client to avoid violating the City's Counseling Ordinance.

212. Eisenreich knows that she could be risking her career if she decides to counsel minors who are struggling with their gender identity and sexual orientation and want to work through it. When she receives requests from clients' parents to work with their children, she typically informs the parents that she may be limited in how she can help because of the City's Counseling Ordinance.

213. Likewise, Bury currently sees minors struggling with anxiety, trauma, and other mental-health issues.

214. Bury would like to grow his practice to counsel more minors.

215. But Bury has refrained from growing his counseling practice as to minors and has specifically declined requests to provide counseling to minors because of the restrictions placed upon him by the Counseling Ordinances.

216. For example, Bury made his practice harder to find on online search engines because he did not want potential clients calling him to address issues with minors that could violate the Counseling Ordinances.

217. Several parents have contacted Bury since the Counseling Ordinances were passed and have asked him to counsel their minor children with respect to the minor's sexual behaviors.

218. The parents asked Bury to counsel their children because they shared his religious beliefs and sought a counselor whose beliefs aligned with theirs.

219. Bury received a call from a parent who was seeking help for her child who had been expelled from school for engaging in inappropriate sexual behavior.

220. The parent questioned whether the child was experiencing same-sex attraction or confusion about his gender identity and asked Bury whether he would be able to change, reduce, or eliminate these issues with the child.

221. Bury knew that he could not address the child's sexual behavior as requested without violating the Counseling Ordinances.

222. Bury therefore referred this prospective client to another counselor.

223. Bury also referred a minor client whose mother sought help for her child who was struggling with feeling like a different sex from the child's biological sex.

224. Bury referred the client because he knew that if he agreed to counsel this client, he could not help the minor client change, reduce, or eliminate the feelings of gender dysphoria without violating the Counseling Ordinances.

225. Bury also received counseling requests from a parent whose child was engaging in inappropriate sexual behaviors and another parent asking him to counsel his son who identified as gay and who had presented with mental-health issues.

226. The parents asked whether Bury would help their child change, reduce, or eliminate those behaviors and attractions.

227. Bury referred the requests to avoid violating the Counseling Ordinances because he realized that counseling these minors could involve changing, reducing, or eliminating these sexual attractions and behaviors.

228. Likewise, because of the vague, overbroad, and arbitrary terms used in the Counseling Ordinances, the Counselors must often guess whether their counseling violates the Counseling Ordinances when they discuss a minor's confusion, anxiety, conflict, or stress about their gender identity, unwanted same-sex attractions, sexual behaviors including pornography, inappropriate opposite-sex relationships with other minors, or inappropriate sexual relationships with adults.

229. Because of the vague, overbroad, and arbitrary terms used in the Counseling Ordinances, the Counselors must often guess whether requests from parents and their minor children may cause them to provide counseling that violates the Counseling Ordinances.

230. Based on the Counselors' conversations with parents who requested the Counselors' services and based on their experiences and conversations with other parents who have hired the Counselors in the past, each Counselor would have been retained by at least one of the parents listed in 208–227 if the Counselor had not been forced to refer the prospective clients to another counselor.

231. Typically, the Counselors see minor clients for multiple sessions and charge between \$125–200 for each session.

232. Therefore, the Counseling Ordinances have caused each of the Counselors to lose compensation.

233. The Counselors desire to continue to work with minors and expect that they will continue to receive requests to counsel minors experiencing confusion over their gender and same-sex attraction.

234. But the prospect of going through an investigative process for allegedly violating the Counseling Ordinances causes the Counselors to reasonably chill their

speech and fear prosecution because of the substantial risk of prosecution and the severe penalties they might face.

235. By regulating the Counselors' speech in these ways, the Counseling Ordinances prevent them from counseling consistent with their religious beliefs about gender and sexuality, prevent them from offering counseling that in their professional judgment is most likely to lead their minor clients to live healthy, stable, and fulfilling lives, and restrict their speech on those topics with minors.

236. Many parents and minors specifically request the Counselors' services because they share the Counselors' religious beliefs on gender and sexuality and desire counseling that aligns with those beliefs.

237. When the Counselors are forced to refer parents and prospective minor clients to other counselors, they often refer them to counselors who practice outside of the City and County and who often do not share the Counselors' religious beliefs (because counselors who share the Counselors' beliefs are likewise unwilling to take on such referrals in the Counselors' experience).

238. The Counseling Ordinances therefore deprive parents and children of their ability to receive information, counseling, and guidance from a licensed counselor who agrees with their religious beliefs about sexuality and gender. The Counseling Ordinances also effectively deny them access to ideas that they wish to hear and to counseling consistent with the minor client's personally chosen faith, life goals, and motivations.

The City's Public Accommodation Ordinance threatens the Counselors' freedom to speak consistent with their religious beliefs on gender and sexuality.

239. The Counselors are also subject to and regulated by the City's Public Accommodation Ordinance.

240. A true and correct copy of the City's Public Accommodation Ordinance is attached as Exhibit 3.

241. The Counselors and their practices are public accommodations and public accommodations owners subject to the City's Public Accommodation Ordinance because they serve clients in the City and offer and hold out their services to the general public for a fee.

242. The Counselors advertise their services on online directories, which allows anyone from the public to request counseling and receive and accept requests for their services through referrals from organizations, churches, and clients.

243. The Counselors each have a unique website for their practices which include a contact page so that anyone from the public may contact them to schedule an appointment.

244. The Public Accommodation Ordinance prohibits "unlawful discriminatory practices" by places of public accommodations through two clauses: The Accommodation Clause and the Publication Clause.

245. The Accommodation Clause makes it unlawful for public accommodations or their "owner[s]" or "agent[s]" "to refuse, [to] withhold from, or [to] deny to any person" any service provided to the public or "to discriminate against any person" in providing those services "on account of religion, ... sexual orientation or gender identity." K.C. Ord. § 38-113(a).

246. The City interprets the Accommodation Clause to require public accommodations to provide the "same services to members of the public without regard to customers' ... sexual orientation" or gender identity. *See* Br. of Local Govt's and Mayors as Amicus Curiae in Supp. of Respts, *303 Creative LLC v. Elenis*, No. 21-476, 2022 WL 3598265, *22-23; Br. of Cnty. of Santa Clara, et al., as Amicus Curiae in Supp. of Respts, *Masterpiece Cakeshop Ltd v. Colo. C.R. Comm'n*, No. 16-111 (Oct. 30, 2017), 2017 WL 5127319, *2-3, *17.

247. Counselors are thus forced into a lose-lose situation. They cannot counsel according to what they understand to be true. And they cannot decline a client

based on the ground that they would be required to say something they believe to be false.

248. The Accommodation Clause likewise prohibits some policies or practices even if the public accommodation does not withhold, refuse, or deny a service because any person can file a complaint alleging an unlawful discriminatory practice based on an injury “that is about to occur.” K.C. Ord. § 38-1(a)(4).

249. The City interprets the Accommodation Clause to regulate “commercial conduct.” *303 Creative*, 2022 WL 3598265, *22–23, *25; *Masterpiece*, 2017 WL 5127319, *17.

250. The City interprets the Counselors’ practice of providing counseling services to the public as “conduct” and claims authority to regulate their practice even when their services use only speech, conversations, and discussions with their clients, similar to how other jurisdictions claim that laws or ordinances regulating professional counseling only regulate conduct, but yet apply to speech.

251. The Accommodation Clause regulates the Counselors’ policies and counseling practices in three ways.

252. *First*, the Accommodation Clause requires the Counselors to offer and provide same-sex marital and relationship counseling because the Counselors already offer and provide counseling about marriages and relationships between one man and one woman.

253. *Second*, the Accommodation Clause requires the Counselors to offer and provide counseling that encourages clients to speak, act, and identify contrary to their sex because the Counselors offer and provide counseling that encourages clients to identify consistent with their sex.

254. *Third*, the Accommodation Clause requires the Counselors to refer to clients and prospective clients by using those persons’ self-selected pronouns, regardless of whether those pronouns reflect their sex, because the Counselors refer

to clients and prospective clients by using their pronouns when their pronouns align with their sex.

255. The Accommodation Clause requires the Counselors to affirm beliefs that violate their own deeply held religious convictions by promoting same-sex relationships and marriage, encouraging clients to identify with a sex that is inconsistent with their sex, and using pronouns inconsistent with a client's sex.

256. The City interprets its Accommodation Clause to compel the Counselors to offer these counseling services because the City considers it to be sexual-orientation or gender-identity discrimination to provide counseling services promoting only opposite-sex marriages and relationships, to provide counseling that encourages clients to adopt only a gender identity consistent with their sex, and to use pronouns only consistent with sex. *See 303 Creative*, 2022 WL 3598265, *22–23; *Masterpiece*, 2017 WL 5127319, *17–20.

257. The City considers the Counselors' policy and practice of providing counseling only consistent with their religious beliefs on pre-marital, marital, and relationship counseling on gender identity and on pronouns to be unlawful discriminatory practices based on gender identity and sexual orientation.

258. Other jurisdictions and entities interpret anti-discrimination laws and policies like the Accommodation Clause as the City interprets the ordinance.

259. For example, Missouri State University removed a counseling student from its counseling program after he explained how “he would counsel gay persons as individuals, but not as couples, because of his religious beliefs, but would refer the couple for counseling to other counselors he knew who did not share his religious views.” Answer to Pl.'s Amended Complaint ¶ 16, *Cash v. Missouri State Univ.*, 16-cv-03155-MDH, ECF No. 18 (W.D. Mo. July 5, 2016).

260. Many states and cities interpret laws like the Accommodation Clause to prohibit any differentiation in services provided by a public accommodation on account of topics related to sexual orientation or gender identity.²⁸

261. For example, New York interprets its public-accommodations law—which is substantially similar to the City’s Public Accommodation Ordinance—to compel businesses to use customers’ preferred pronouns and titles.²⁹

262. Meanwhile, the Publication Clause has two clauses.

²⁸ See N.Y. Div. of Hum. Rts., *Guidance on Protections from Gender Identity Discrimination under the N.Y. State Hum. Rts. Law 6–7* (2020), <https://on.ny.gov/3A3b7k3>; Wash. State Hum. Rts. Comm’n, *Sexual Orientation & Gender Identity Discrimination is Prohibited under Washington State Law 2*, <https://bit.ly/3p5JyA8>; Iowa C.R. Comm’n, *Sexual Orientation & Gender Identity 2* (2016), <https://bit.ly/3AMfOPm>; U.S. Equal Employment Opportunity Commission, *Protections Against Employment Discrimination Based on Sexual Orientation or Gender Identity* (2021), <https://bit.ly/3bo7fk8>; N.J. Div. on C.R., *5 Things You Should Know about Discrimination and Harassment in Public Accommodations Based on Gender Identity or Expression* (2021), <https://bit.ly/3QMwegz>; Colo. C.R. Comm’n Rules & Regs., 3 CCR 708–1, R. 81.6, <https://bit.ly/3An1nQq>; Cal. Civ. Code § 51; *Prescott v. Rady Children’s Hosp.-San Diego*, 265 F. Supp. 3d 1090, 1096–1100 (S.D. Cal. 2017) (interpreting California law to compel pronoun usage); Vermont Hum. Rts. Comm’n, *Sex, Sexual Orientation, and Gender Identity: A Guide to Vermont’s Anti-Discrimination Law for Employers and Employees*, <https://bit.ly/3WP2BgE>; Mass. Comm’n Against Discrimination Gender Identity Guidance (2016), <https://bit.ly/3ji9IRd>; N.Y. City Gender Identity/Gender Expression: Legal Enforcement Guidance, <https://bit.ly/3HLLr46>; *Doe v. City of New York*, 42 Misc. 3d 502, 504 (N.Y. Sup. Ct. 2013) (holding that failing to use pronouns violates state and local law); D.C. Mun. Regs. tit. 4, § 808; City and Cnty. of San Francisco Hum. Rts. Comm’n, *Compliance Guidelines to Prohibit Identity Discrimination* (2003), <https://bit.ly/40lNfDu>; Cambridge, Mass. Hum. Rts. Comm’n *Gender Identity & The Law: Public Accommodations Training*, <https://bit.ly/3JB2P86>. Cf. Complaint, *Jackson v. Fort Osage R-1 School Disc.*, 23-cv-00193-BCW (W.D. Mo. Mar. 21, 2023) (alleging Title VII sex-discrimination for allegedly treating student teacher differently for identifying as non-binary).

²⁹ N.Y. Div. of Hum. Rts., *Guidance on Protections from Gender Identity Discrimination under the New York State Hum. Rts. Law 6–7* (2020), available at <https://on.ny.gov/3A3b7k3>; N.Y. Exec. L. § 296(2)(a).

263. The Publication Clause's Denial Clause makes it unlawful for public accommodations "to publish, circulate, or display any written or printed communication, notice or advertisement to the effect that any of the accommodations or the facilities of such place of accommodation will be refused, withheld from or denied to any person" because of a person's gender identity, sexual orientation, and other characteristics. K.C. Ord. § 38-113(a).

264. The Publication Clause's Unwelcome Clause makes it unlawful for public accommodations "to publish, circulate or display any written or printed communication, notice or advertisement to the effect that ... the patronage or custom of any person described in this section is unwelcome or objectionable or not acceptable to such place" because of a person's gender identity, sexual orientation, and other characteristics. K.C. Ord. § 38-113(a).

265. The City never defines "unwelcome," "objectionable," or "not acceptable."

266. One local government used a similarly worded ordinance to punish a restaurant for posting admittedly political speech on the topic of gender identity, claiming that the sign caused "negative secondary effects" and "constitute[d] fighting words." A true and correct copy of the relevant complaint and brief filed by the local government is attached as Exhibit 4.

267. Another jurisdiction used a similarly worded ordinance to punish an Orthodox retail shop for posting a sign encouraging modesty because it made "women, non-Jews and the non-religious ... feel uncomfortable and unwelcome," Philip Messing, Hearing for Orthodox Jewish Shops' 'Modesty' Rules, N.Y. Post (Sept. 30, 2013, 12:46 AM), <https://perma.cc/G9XP-WRF3>.

268. The terms "unwelcome," "objectionable," or "not acceptable" are overbroad, vague, and provide no guiding standards for enforcement officials.

269. Although the Public Accommodation Ordinance restricts without exemptions the Counselors' freedom to speak and operate their practices according to their religious beliefs, the City provides many other exemptions.

270. For example, the Public Accommodation Ordinance exempts some lodgings and private clubs with less than 250 members; the City's employment ordinance does not apply to employers with less than six employees or to religious institutions; and the City's housing ordinance does not apply to certain dwellings or religious institutions. K.C. Ord. §§ 38-1(a)(13), (23)(a), (g); 38-113(b)(1)–(2); 38-103(c); 38-105(g)–(h).

The City enforces its Public Accommodation Ordinance through aggressive mechanisms and penalties.

271. The City actively enforces its Public Accommodation Ordinance.

272. The City accepts complaints against public accommodations from “any person claiming injury, ... including persons who believe they will be injured by an unlawful discriminatory practice that is about to occur,” associations, organizations, City officials, and the City. *See* K.C. Ord. §§ 38-1(a)(4), 21, 32-21(4), 38-23(a)(1), 38-111(a)(3), 38-206(b).

273. The City makes it easy for persons to file complaints by posting the discrimination complaint form on its website and receiving complaints via phone calls. *See* Civil Rights & Equal Opportunity, *File a Discrimination Complaint*, <https://www.kcmo.gov/city-hall/departments/human-relations>.

274. The City's officials receive and investigate complaints, determine whether probable cause exists to find that an unlawful discriminatory practice occurred, have the power to “eliminate the unlawful discriminatory practice,” and refer complaints where probable cause exists for prosecution. K.C. Ord. § 38-23.

275. The City Attorney prosecutes these complaints. K.C. Ord. § 38-23(e).

276. Penalties for violating the Public Accommodation Ordinance include fines of up to \$500, imprisonment for up to 180 days, loss of business license in the City, damages, attorney's fees, and costs. K.C. Ord. §§ 38-35, 38-101(a), 38-206.

The City's Public Accommodation Ordinance imposes overwhelming and ongoing burdens on the Counselors' ability to operate their practices consistent with their beliefs.

277. The Public Accommodation Ordinance has and continues to impose significant pressures and burdens on the Counselors, how they operate their counseling practices, and how they communicate about their practices.

278. The Accommodation Clause affects the Counselors' messages on sexuality and gender identity by forcing them to promote activities, sexual ethics, and a view of self that violate their religious beliefs.

279. The Accommodation Clause does so by forcing the Counselors to express messages about sexuality, relationships, and gender identity that contradict those beliefs because the clause requires the Counselors to encourage same-sex marriage or relationships, to encourage clients to identify as a gender identity other than their biological sex, and to use pronouns inconsistent with biological sex.

280. This compulsion undercuts the messages the Counselors express elsewhere, promoting their religious beliefs about sexuality and gender identity. It also harms their reputation among the public and their clients and adversely affects their ability to share biblical truths about marriage and gender identity with others.

281. The Counselors want to follow their policy and practice of providing counseling services consistent with their religious beliefs on sexuality and gender identity, but the Accommodation Clause makes this illegal.

282. For example, the Counselors desire to continue to follow their pattern and practice of only providing marital or relationship counseling in the context of

promoting marriage and healthy romantic relationships between one man and one woman.

283. The Counselors desire to continue to follow their pattern and practice of referring to their clients with pronouns consistent with their sex (he/him pronouns for male clients and she/her pronouns for female clients), and to refrain from referring to clients with pronouns inconsistent with their sex.

284. The Counselors also desire to continue to follow their pattern and practice of promoting and encouraging only a gender identity consistent with a client's sex, and to refrain from promoting or encouraging a clients' attempts to act or identify contrary to their sex, such as attempts to social transition or to use drugs and procedures to alter their bodies to appear like the opposite sex.

285. The Accommodation Clause makes the Counselors' pattern and practice listed in paragraphs 281–284 illegal.

286. The Counselors risk being penalized under the Accommodation Clause every day that they follow these policies and practices.

287. The Accommodation Clause also prohibits the Counselors from referring current or prospective clients to other counselors when those clients desire counseling that promotes same-sex relationships or efforts to identify contrary to their sex, or that requests the use of pronouns inconsistent with their sex.

288. And the Counselors have been asked for such counseling.

289. For example, Eisenreich received a request from a same-sex couple asking her to counsel them through some issues that were impacting their relationship.

290. Eisenreich declined the request because she knew she could not promote, encourage, or affirm a relationship that contradicted her beliefs about God's purpose and design for marriage.

291. Likewise, Eisenreich received and declined a request to refer to a client using the client's self-selected pronouns that did not align with the client's sex. *Supra* ¶¶ 168–171.

292. Eisenreich also received a request from a mother who wanted Eisenreich's help to counsel her seventeen-year-old's gender-insecurity struggles.

293. The Public Accommodation Ordinance hinders the Counselors' ability to operate their practices consistent with their beliefs in other ways as well.

294. The Counselors want to ask prospective clients questions sufficient to learn whether they are seeking counseling services that would require them to violate their beliefs about sexuality and gender identity so that the Counselors can be honest with them and inform them about the counseling services they provide.

295. But the Accommodation and Publication Clauses forbid the Counselors from asking these questions and have forced them to refer prospective clients seeking their services to other counselors when the initial inquiry suggested that the client may have sought counseling that violated the Counselors' beliefs.

296. The Accommodation and Publication Clauses have hindered the Counselors' ability to counsel adults struggling with gender or sexuality issues.

297. For example, Eisenreich has counseled several individuals who were living with same-sex attraction. In counseling with these individuals, Eisenreich advised them to take some time away from engaging in same-sex relationships and to instead spend time in self-reflection to understand who they are.

298. But in the process of counseling some clients who identified as LGBT, Eisenreich was limited in what questions she could ask in the initial inquiry that could have shown her whether she would have to violate her religious beliefs in conducting counseling with these individuals.

299. Likewise, Eisenreich has recently begun counseling a couple who requested that she help their minor son who wishes to begin identifying as a girl.

When Eisenreich conducted the initial intake call, she was limited in what questions she could ask the couple about what they sought in counseling, due to the restrictions from the Accommodation and Publication Clauses.

300. There have been several parents who sought out Eisenreich's counseling services to counsel their children, but she did not counsel all those parents. She informed the parents that she was limited in counseling minors directly about these issues due to the Accommodation and Publication Clauses. By referring prospective clients to other counselors—clients that the Counselors might have taken on if they had been authorized to ask additional questions—the Counselors have lost business because of the City's Public Accommodation Ordinance.

301. Bury has lost business by having to refer several clients to counselors outside of the City to avoid violating the City's Public Accommodation Ordinance.

302. For example, Bury referred out a potential client that originated from a phone call from the minor's mother. The mother requested Bury's help with a possible sexual assault of which her children were victims.

303. When Bury referred the mother, he did not know if the situation involved any issue with gender identity because he declined to fully investigate the factual situation with additional questions for fear of violating the Public Accommodation Ordinance.

304. The Publication Clause has also prohibited and continues to prohibit Eisenreich and Bury from posting statements on their practice's websites explaining their religious reasons for why they only provide counseling services consistent with their religious beliefs and explaining those beliefs.

305. A true and correct copy of the statement Eisenreich desires to post is attached as Exhibit 5.

306. A true and correct copy of the statement Bury desires to post is attached as Exhibit 6.

307. The Counselors want to post these statements to explain their services and beliefs because they are religiously motivated to be transparent and honest with clients, potential clients, and the public.

308. The Counselors desire to post these statements to inform the public and prospective clients about their areas of professional expertise and competency.

309. It is common for counselors to be specific about their areas of practice, expertise, and personal training, and to inform the public about these things.

310. The Counselors also want to make statements materially similar to those in Exhibits 5–6 directly to prospective clients when asked to explain their services.

311. But if the Counselors posted their desired statements (Exhibits 5–6), or materially similar statements on their website or made materially similar statements to prospective clients, they would violate the Publication Clause.

312. The Counselors have not and will not post their desired statements (Exhibit 5–6) or materially similar statements on their website or make materially similar statements directly to prospective clients because of the Publication Clause.

313. By preventing the Counselors from effectively communicating about the counseling services they provide, the Accommodations and Publication Clauses have caused and continue to cause them to decline requests for counseling services that they may otherwise accept if they were allowed to ask certain questions and to suffer reputational harm by preventing them from clearly and honestly communicating their religious beliefs to prospective clients and the public.

314. The Publication Clause imposes additional restrictions and burdens.

315. For example, Bury currently posts a statement on his Christian Life Coaching website explaining his religiously motivated approach to life coaching.

316. A true and correct copy of Bury's statement is attached as Exhibit 7.

317. The statement explains that although Bury gladly provides his Christian Life Coaching to any client, the coaching is specifically directed at helping clients “achieve their goals related to their Christian Life.”

318. Some—including people who are agnostic, atheist, or share different views—find Christian statements on professional websites to be offensive.³⁰

319. By posting this statement, Bury faces a substantial risk that he is violating the Publication Clause because the post may be interpreted as refusing, withholding, or denying his coaching services to some patrons because of religious beliefs or because the statement makes them feel “unwelcome,” “objectionable,” or “not acceptable.”

320. Bury therefore faces a substantial risk of prosecution each day he keeps the statement posted.

321. If not for the Accommodations and Publication Clauses, the Counselors would immediately initiate activities motivated by their religious beliefs.

322. For example, the Counselors would begin asking prospective clients questions sufficient to determine whether those prospective clients are seeking counseling services that might violate the Counselors’ beliefs on sexuality and gender identity.

323. The threat of going through the City’s burdensome investigative process based on alleged violation of the Public Accommodation Ordinance likewise causes the Counselors to refrain from their desired activities.

³⁰ See Michael McCarthy, *God May Forgive Ads That Offend, but Customers Probably Won’t*, <https://bit.ly/4arJbXb> (claiming that companies that use religion in their advertisements offend groups of consumers).

The Counseling Ordinances and the City's Public Accommodation Ordinance disproportionately burden the Counselors' practice compared to other counselors.

324. Although the Counseling and the Public Accommodation Ordinances prohibit the Counselors from speaking and operating their counseling practices consistent with their religious beliefs on sexuality and gender identity, the Ordinances allow other licensed counselors to speak and operate according to their different views on sexuality and gender identity.

325. This distinction in treatment depends on the particular view that a counselor holds and expresses about human sexuality and gender identity.

326. Many counselors in the City and County provide counseling that addresses same-sex marriages and relationships, promotes the view that sex can be changed, encourages clients to act and identify contrary to their sex, and refers to clients using pronouns and titles that differ from the client's sex.

327. For example, there are 82 licensed professionals listed on the LGBT-Affirming Therapist Guild's website who have the stated goal "to make affirming culturally competent healthcare available for all sexual and gender minorities based on the premise that queer and heterosexual identities are equally valid."³¹

328. The Transgender Institute located within the City and County also promotes and advocates for the viewpoint that sex is chosen and can be changed, and advocates for social transitions and medical procedures to alter people's bodies to reflect their perceived identity.

329. There are also over 400 mental-health professionals listed on psychologytoday.com who address issues related to sexual orientation and gender identity in the City.³²

³¹ Queer-Affirming Therapist Guild, <https://lgbtguild.com/>.

³² Psychology Today, *LGBTQ+ Affirming Therapists in Kansas City, MO*, <https://bit.ly/3WTn6f7>.

330. The City and County also recognize that hospitals in Kansas City already offer mental-health services “to children and their families as they navigate the process of gender identity development.” *See* Exs. 1–2.

331. But the Counseling Ordinances and the Public Accommodation Ordinance impose increased burdens on the Counselors not placed on these other counselors. This gives an advantage to the other counselors practicing in the same geographical region as the Counselors and makes it easier for these other counselors to adopt policies, promote ideas, and tailor their websites consistent with their beliefs so they can attract their desired clients.

332. For example, the Counseling Ordinances and the Public Accommodation Ordinance force the Counselors to violate their religious beliefs about sexuality and gender while not imposing this same violation on other counselors whose beliefs differ from the Counselors.

333. Accordingly, the Counseling Ordinances and the Public Accommodation Ordinance place the Counselors at a competitive disadvantage and place competitive burdens on them because of their religious faith, their viewpoint and desire to express that viewpoint, and their refusal to speak the government’s message.

Legal Allegations

334. The challenged ordinances violate Plaintiffs’ constitutional rights and chill and deter Plaintiffs from exercising their constitutional rights.

335. As a direct and proximate result of Defendants’ violations of the Counselors’ constitutional rights and those of similarly situated citizens in Missouri, Plaintiffs have suffered and will suffer ongoing irreparable harm and economic injury (including lost business), entitling them to declaratory and injunctive relief and entitling the Counselors to compensatory and nominal damages.

336. The Counselors do not have an adequate monetary or legal remedy for the loss of their constitutional rights. Nor does the State have an adequate monetary or legal remedy for this injury to its sovereign and parens patriae interests.

First Cause of Action

The Counseling Ordinances Violate the First Amendment's Free Speech and Assembly Clauses: Freedom of Speech, Press, and Assembly

337. Plaintiffs repeat and reallege all preceding allegations.

338. The Counselors' desired speech in their counseling and counseling practice is a form of protected speech, publication, and assembly, and the Counselors and other similarly situated Missouri citizens communicate and publish their speech to the public.

339. The reception of information through counseling by the Counselors' minor clients and their minor clients' parents is a form of protected speech and assembly. The same is true for other similarly situated Missouri citizens.

340. The Counseling Ordinances facially and as-applied restrict speech based on content and viewpoint by prohibiting the Counselors and other licensed professionals who are Missouri citizens from proclaiming only certain content and viewpoints; by applying to speech based solely on its content; by authorizing counseling that supports only one viewpoint of gender identity and sexual orientation; by forcing the Counselors and other licensed professionals who are Missouri citizens to endorse and promote only one viewpoint of gender identity and sexual orientation; by forcing the Counselors and other licensed professionals who are Missouri citizens to chill their speech on the topics of gender identity and sexual orientation; and by depriving the Counselors and other licensed professionals who are Missouri citizens of the opportunity to assemble and form desirable associations.

341. The Counseling Ordinances also restrict speech of the Counselors' clients (as well as speech of similarly situated Missouri citizens who are clients),

including their minor clients and their minor clients' parents, based on content and viewpoint by restricting parents' and minors' access to information based on its content; by authorizing them to receive information articulating only one viewpoint of gender identity and sexual orientation; by depriving them of licensed counseling offering alternative viewpoints of gender identity and sexual orientation, including those consistent with the parents' and minors' religious beliefs; and by depriving them of the opportunity to assemble and form desirable associations.

342. Many minor clients request the Counselors' help through counseling because they feel that their discussions with the Counselors involve the most intimate, difficult, important, and embarrassing topics in their lives, which makes it extremely difficult or even impossible for these clients and their parents to bring suit to protect their own constitutional rights.

343. The Counselors' clients and their clients' parents (as well as the clients and clients' parents of similarly situated Missouri citizens) are not themselves subject to penalties under the Counseling Ordinances and risk being denied their right to receive information without any forum in which to assert and protect that right.

344. The Counseling Ordinances are unconstitutionally vague on their face and allow Defendants unbridled discretion to evaluate speech and then discriminate based on content and viewpoint in determining whether to apply the ordinances.

345. The Counseling Ordinances are facially overbroad because a substantial number of their applications are unconstitutional insofar as they regulate protected speech judged in relation to any otherwise legitimate sweep.

346. The Counselors have not and will not engage in certain protected speech because of the Counseling Ordinances. The Counseling Ordinances also prevent other, similarly situated Missouri citizens from engaging in certain protected speech.

347. The Counseling Ordinances are not sufficiently tailored to serve any legitimate or compelling interest as applied to the Counselors' and similarly situated

Missouri citizens' free-speech, free-assembly, or free-press rights, or the free-speech or free-assembly rights of their minor clients and clients' parents.

348. Accordingly, as applied to the Counselors, similarly situated Missouri citizens, their clients, and their clients' parents, the Counseling Ordinances violate the First Amendment's protections for free speech, free press, and free assembly.

349. Accordingly, the Counseling Ordinances facially violate the First Amendment's protections for free speech.

Second Cause of Action

The Public Accommodation Ordinance Violates the First Amendment's Free Speech and Assembly Clauses: Freedom of Speech, Press, and Assembly

350. Plaintiffs repeat and reallege each of the allegations in paragraphs 1–336 of this Complaint.

351. The Counselors' desired speech in their counseling and counseling practice is a form of protected speech, publication and press, and assembly. The same is true for the desired speech of similarly situated Missouri citizens who engage in counseling.

352. The Public Accommodation Ordinance compels speech the Counselors object to; forbids them from adopting and following certain policies, patterns, and practices; and regulates their speech, assembly, and publication based on content and viewpoint. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

353. The Public Accommodation Ordinance forces the Counselors to speak messages they object to by requiring them to offer and provide same-sex marital and relationship counseling because the Counselors offer and provide counseling about marriages and relationships between one man and one woman; to offer and provide counseling that encourages clients to speak, act, and identify contrary to their sex because the Counselors offer and provide counseling that encourages clients to

identify consistent with their sex; and to refer to clients and prospective clients by using those persons' self-selected pronouns, regardless of whether their pronouns reflect their sex because the Counselors refer to clients and prospective clients by using their pronouns when their pronouns align with their sex. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

354. The Public Accommodation Ordinance conditions the Counselors' ability to offer counseling services and to counsel according to their beliefs about marriage, sexuality, and gender identity on the requirement that the Counselors also offer counseling services promoting views on those topics that contradict their beliefs, including counseling that supports same-sex marriages, same-sex relationships, and the idea that one's sex can be chosen or changed. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

355. The Publication Clause is a content- and viewpoint-based regulation that bans, chills, and burdens the Counselors' desired speech (and publication of that speech) on their websites, social media sites, other written materials, and directly to prospective clients. The Publication Clause affects similarly situated Missouri citizens in the same way.

356. The Publication Clause's Unwelcome Clause is vague and grants Defendants unbridled discretion to evaluate speech and then discriminate based on content and viewpoint in determining whether to apply the Unwelcome Clause.

357. The Publication Clause's Unwelcome Clause is also facially unconstitutional because it is vague, is overbroad, grants unbridled discretion, and is a content-based and viewpoint-based regulation that bans, chills, and burdens speech, assembly, and publication of speech.

358. The Counselors have not and will not engage in certain protected speech because of the Public Accommodation Ordinance. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

359. The Public Accommodation Ordinance is not sufficiently tailored to serve any legitimate or compelling interest as applied to the Counselors' free-speech, free-press, or free-assembly. The same is true as applied to similarly situated Missouri citizens.

360. Accordingly, as applied to the Counselors and similarly situated Missouri citizens, the Public Accommodation Ordinance violates the First Amendment's protections for free speech, free press, and free assembly.

361. Accordingly, the Publication Clause's Unwelcome Clause facially violates the First Amendment's protections for free speech, free press, and free assembly.

Third Cause of Action

The Counseling Ordinances Violate the First Amendment's Free Exercise Clause: Lack of Neutrality and General Applicability and Individualized Exemptions

362. Plaintiffs repeat and reallege each of the allegations in paragraphs 1–336 of this Complaint.

363. The Counselors exercise their religion under the First Amendment when they operate their counseling practices, adopt and follow written and unwritten policies and practices consistent with their religious beliefs, and provide counseling. The same is true regarding similarly situated Missouri citizens.

364. The Counseling Ordinances substantially burden the Counselors' sincerely held religious beliefs by requiring them either to operate their counseling practices in ways that violate their religious beliefs or to close their practices, by stopping them from being honest with prospective clients by barring them from stating what counseling services they will not provide due to their religious beliefs,

by preventing them from counseling consistent with their religious beliefs about gender identity and sexual orientation, and by preventing their religiously motivated speech. The Counseling Ordinances affect similarly situated Missouri citizens in the same way.

365. The Counseling Ordinances are not neutral towards the Counselors' religious beliefs because the ordinances do not force nonreligious counselors or counselors with favored religious views to choose between these same options when faced with requests to provide counseling on topics with which they disagree, or to refrain from speaking. The Counseling Ordinances affect similarly situated Missouri citizens in the same way.

366. The Counseling Ordinances impermissibly prefer secular and certain religious views over other religious views and impermissibly treat comparable secular activities more favorably than the Counselors' religious exercise by allowing those who own and operate counseling practices to express beliefs in favor of same-sex attractions or gender identity but not allowing the Counselors to express contrary religious beliefs. The Counseling Ordinances affect similarly situated Missouri citizens in the same way.

367. The Counseling Ordinances are not facially or operationally neutral or generally applicable because they contain categorical exemptions without exempting the Counselors, and target ideas and motivations well known to be primarily associated with and advanced by people of particular religious beliefs because of those beliefs. The Counseling Ordinances affect similarly situated Missouri citizens in the same way.

368. The Counseling Ordinances are also hostile towards religion, target and show favoritism towards certain non-religious and religious beliefs, and impose special disabilities on the Counselors due to their religious beliefs. The Counseling Ordinances affect similarly situated Missouri citizens in the same way.

369. The Counseling Ordinances violate the Counselors' free-exercise rights under the hybrid-rights doctrine because they implicate free-exercise rights in conjunction with other constitutional protections, including free speech, assembly, and press. The Counseling Ordinances affect similarly situated Missouri citizens in the same way.

370. The Counseling Ordinances impose severe coercive pressure on the Counselors to change or violate their religious beliefs and to stop operating their business according to their religious beliefs. The Counseling Ordinances affect similarly situated Missouri citizens in the same way.

371. The Counselors have not and will not engage in certain religiously-motivated activities because of the Counseling Ordinances and, if not for the Counseling Ordinances, the Counselors would immediately begin those activities. The Counseling Ordinances likewise stifle other, similarly situated Missouri citizens in the same way.

372. The Counseling Ordinances are not sufficiently tailored to serve any legitimate or compelling interest as applied to Plaintiffs' free-exercise rights.

373. Accordingly, as applied to the Counselors and other similarly situated Missouri citizens, the Counseling Ordinances violate the First Amendment's protections to freely exercise religion.

Fourth Cause of Action

The Public Accommodation Ordinance Violates the First Amendment's Free Exercise Clause: Lack of Neutrality and General Applicability, Individualized Exemptions, and Compelled Participation

374. Plaintiffs repeat and reallege each of the allegations in paragraphs 1–336 of this Complaint.

375. The Counselors exercise their religion under the First Amendment when they operate their counseling practices, adopt and follow written and unwritten policies and practices consistent with their religious beliefs, honestly communicate

with clients and prospective clients about the counseling they can and cannot provide, counsel consistent with their religious beliefs, and provide counseling. The same is true for similarly situated Missouri Citizens.

376. The City's Public Accommodation Ordinance substantially burdens the Counselors' sincerely held religious beliefs by requiring them either to operate their counseling practices in ways that violate their religious beliefs or to close their practices; by preventing them from keeping and following written and unwritten policies and practices consistent with their religious views on marriage and gender identity; by stopping them from being honest with prospective clients by barring them from stating what counseling services they will not provide due to their religious beliefs; by preventing their religiously motivated speech; by compelling speech that they are religiously obligated to avoid; by preventing them from counseling consistent with their religious beliefs about gender identity and sexual orientation; by preventing their religiously motivated speech; and by forcing their participation in counseling activities prohibited by their religious beliefs. The City's Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

377. The Public Accommodation Ordinance violates and substantially burdens the Counselors' religious exercise by requiring them to offer and provide same-sex marital and relationship counseling because the Counselors offer and provide counseling about marriages and relationships between one man and one woman; to offer and provide counseling that encourages clients to speak, act, and identity identify contrary to their sex because the Counselors offer and provide counseling that encourages clients to identify consistent with their sex; and to refer to clients and prospective clients by using those persons' self-selected pronouns, regardless of whether their pronouns reflect their sex, because the Counselors refer to clients and prospective clients by using pronouns when those pronouns align with

clients' sex. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

378. The Public Accommodation Ordinance does not force nonreligious counselors or counselors with favored religious views to choose between these same options when faced with requests to provide counseling on topics with which they disagree or when they explain why they decline to provide certain forms of counseling.

379. The Public Accommodation Ordinance impermissibly prefers secular views over religious views and certain religious views over others and impermissibly treats comparable secular activities more favorably than the Counselors' and similarly situated Missouri citizens' religious exercise by allowing those who own and operate counseling practices to express beliefs in favor of same-sex attractions or gender identity but not allowing the Counselors and similarly situated Missouri citizens to express contrary religious beliefs.

380. The Public Accommodation Ordinance is not facially or operationally neutral or generally applicable because it contains categorical exemptions without exempting the Counselors and similarly situated Missouri citizens and targets ideas and motivations well known to be primarily associated with and advanced by people of particular religious beliefs for reasons of those beliefs.

381. The Public Accommodation Ordinance is hostile towards religion, targets and shows favoritism towards certain non-religious and religious beliefs, and imposes special disabilities on the Counselors due to their religious beliefs. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

382. The Public Accommodation Ordinance violates the Counselors' free-exercise rights under the hybrid-rights doctrine because it implicates free-exercise rights and other constitutional protections, like the rights to free speech, assembly,

and press. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

383. The Public Accommodation Ordinance imposes severe coercive pressure on the Counselors to change or violate their religious beliefs and to stop operating their business according to their religious beliefs. The Public Accommodation Ordinance affects similarly situated Missouri citizens in the same way.

384. The Counselors have not and will not engage in certain religiously motivated activities because of the Public Accommodation Ordinance, and, if not for this ordinance, the Counselors would immediately begin those activities. The Public Accommodation Ordinance stifles similarly situated Missouri citizens in the same way.

385. The Public Accommodation Ordinance is not sufficiently tailored to serve any legitimate or compelling interest as applied to the Counselors' or similarly situated Missouri citizens' free-exercise rights.

386. Accordingly, as applied to the Counselors, the Public Accommodation Ordinance violates the First Amendment's protections to freely exercise religion.

Fifth Cause of Action
The Counseling Ordinances Violate the Fourteenth Amendment's Due Process
Clause: Vagueness and Overbreadth

387. Plaintiffs repeat and reallege each of the allegations in paragraphs 1–336 of this Complaint.

388. The Counseling Ordinances use vague and overbroad terms that are subject to arbitrary enforcement based on Defendants' unbridled discretion such as “change,” “eliminate or reduce,” “sexual romantic attractions or feelings,” “preferred outcome,” “facilitate,” “development,” “behaviors,” “enduring physical, romantic, and/or emotional attraction,” “sexual preference or practice,” and others, and rely on vague and arbitrary definitions for “sexual orientation” and “gender identity.”

389. The Counseling Ordinances never define key terms used in the ordinances.

390. These terms are overbroad because they prohibit a substantial amount of protected speech and expressive activity relative to any legitimate sweep the Counseling Ordinances may have (if at all), the government lacks a compelling interest in restricting the speech and expressive activity prohibited by the Counseling Ordinances, and the Counseling Ordinances' restrictions are not narrowly tailored.

391. Plaintiffs, Defendants, and third parties of ordinary intelligence cannot know what conversations between the Counselors (or similarly situated Missouri citizens) and their clients might fall within any of the vague, overbroad, or discretionary terms or phrases used in the Counseling Ordinances and therefore cannot know what is prohibited by the Counseling Ordinances.

392. Defendants can use this vagueness, overbreadth, and accompanying unbridled discretion to apply the Counseling Ordinances in a way that discriminates against content, viewpoints, and actions Defendants disfavor.

393. Accordingly, facially and as applied to the Counselors, the Counseling Ordinances violate the Fourteenth Amendment's Due Process Clause.

Sixth Cause of Action
The Publication Clause Violates the Fourteenth Amendment's Due Process Clause:
Vagueness and Overbreadth

394. Plaintiffs repeat and reallege each of the allegations in paragraphs 1–336 of this Complaint.

395. The Publication Clause's Unwelcome Clause prohibits any place of public accommodation from “publish[ing], circulat[ing] or display[ing] any written communication, notice or advertisement to the effect that ... the patronage or custom of any person ... is unwelcome or objectionable or not acceptable to such place”

because of the person's sexual orientation, gender identity, and other characteristics. K.C. Ord. § 38-113(a).

396. These terms are overbroad because they prohibit speech that may cause a person to feel unwelcome, objectionable, or not acceptable, which includes a substantial amount of protected speech and expressive activity relative to any legitimate sweep the Unwelcome Clause may have (if at all).

397. The government lacks a compelling interest in restricting the speech and expressive activity prohibited by the Unwelcome Clause, and the Unwelcome Clause's restrictions are not narrowly tailored.

398. Plaintiffs, Defendant Kansas City, and third parties of ordinary intelligence cannot know what communications made on a public accommodation's website, made on a public accommodation's social media sites, made through mail, written anywhere, or made directly to prospective clients indicate a person's "patronage" at a place of public accommodation is "unwelcome, objectionable, not acceptable" and therefore cannot know what the Unwelcome Clause prohibits.

399. Defendant Kansas City can use this vagueness, overbreadth, and accompanying unbridled discretion to apply the Unwelcome Clause in a way that discriminates against content, viewpoints, and actions it disfavors.

400. Accordingly, facially and as applied to the Counselors, the Unwelcome Clause violates the Fourteenth Amendment's Due Process Clause.

Prayer for Relief

Plaintiffs respectfully request that this Court enter judgment against Defendants and provide the following relief:

1. A preliminary and permanent injunction to stop Defendants and any person acting in concert with them from:

- a. enforcing the Counseling Ordinances and the Public Accommodation Ordinance as applied to the constitutionally protected speech, assembly, due-process, free-press, and free-exercise rights by the Counselors and similarly situated speakers who are Missouri citizens;
- b. enforcing the Counseling Ordinances as applied to the Counselors' clients', the Counselors' clients' parents', and similarly situated Missouri citizens' constitutionally protected speech and assembly rights; and
- c. enforcing the Counseling Ordinances insofar as they prohibit speech and the Publication Clause's Unwelcome Clause facially.

2. A declaration that the Counseling Ordinances and the Public Accommodation Ordinance have and continue to violate the First and Fourteenth Amendment rights of the Counselors and similarly situated Missouri citizens to engage in speech, press, and religious exercise as applied to the constitutionally protected activities of the Counselors and similarly situated Missouri citizens.

3. A declaration that the Counseling Ordinances have and continue to violate the First and Fourteenth Amendment rights of the Counselors' and similarly situated Missouri citizens' clients and their parents to engage in speech and assembly as applied to their constitutionally protected activities.

4. A declaration that the Counseling Ordinances facially violate the First Amendment protections for speech insofar as they prohibit speech and the Fourteenth Amendment protections for due process.

5. A declaration that the Publication Clause's Unwelcome Clause facially violates the First Amendment protections for speech and press and the Fourteenth Amendment protections for due process.

6. A demand for jury trial on all issues so triable.

7. Nominal and compensatory damages to the Counselors.
8. Pre- and post-judgment interest if applicable.
9. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy so that these declarations shall have the force and effect of a final judgment.
10. That this Court retain jurisdiction of this matter for the purpose of enforcing its orders.
11. That this Court award the Plaintiffs' costs and expenses in this action, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988.
12. That this Court issue the requested injunctive relief without a condition of bond or other security required of the Plaintiffs; and
13. That this Court grant any other relief that it deems equitable and just in the circumstances.

Respectfully submitted this 7th day of February, 2025.

By: s/Joshua M. Divine

ANDREW BAILEY

MISSOURI ATTORNEY GENERAL

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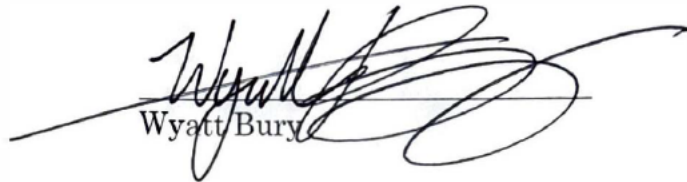
**Pending Admission Pro Hac Vice*

Attorneys for Plaintiffs

DECLARATION UNDER PENALTY OF PERJURY

I, Wyatt Bury, a citizen of the United States, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing allegations as they relate to me and my personal experiences are true and correct to the best of my knowledge, except for the matters stated on information and belief.

Executed this 6th day of February, 2025, at Kansas City, Missouri.


Wyatt Bury

DECLARATION UNDER PENALTY OF PERJURY

I, Pamela Eisenreich, a citizen of the United States and a resident of the State of Missouri, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing allegations as they relate to me and my personal experiences are true and correct to the best of my knowledge, except for the matters stated on information and belief.

Executed this 6th day of February, 2025, at Kansas City, Missouri.

A handwritten signature in black ink that reads "Pamela Eisenreich". The signature is written in a cursive style with a horizontal line underneath the name.

Pamela Eisenreich

EXHIBIT 1

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 190902

Amending Chapter 50 of the Code of Ordinances, "Offenses and Miscellaneous Provisions," by enacting a new Section 50-234 in Article VII to protect the physical and psychological well-being of minors, including but not limited to lesbian, gay, bisexual, transgender and/or questioning youth, from exposure to the serious harms and risks caused by conversion therapy or reparative therapy by licensed providers.

WHEREAS, conversion therapy, also known as reparative therapy, ex-gay therapy, or sexual orientation and gender identity change efforts, is a range of discredited practices aimed at changing one's sexual orientation or gender identity; and

WHEREAS, a national community of professionals in education, social work, health, mental health and counseling including the American Academy of Child and Adolescent Psychiatry have determined that there is no scientifically valid evidence that supports the practice of conversion therapy; and

WHEREAS, such professionals have determined that there is no evidence that conversion therapy is effective or that an individual's sexual orientation or gender identity can be changed by conversion therapy; and

WHEREAS, such professionals have also determined that conversion therapy is not only ineffective, but is substantially dangerous to an individual's mental and physical well-being and has also been shown to contribute to depression, self-harm, low self-esteem, family rejection, and suicide; and

WHEREAS, in contrast, the Children's Mercy Hospital in Kansas City, Missouri, provides evidenced-based therapy or treatment to over 300 children annually within its Gender Pathway Services Clinic, providing physical, mental, and social health services to children and their families as they navigate the process of gender identity development, illustrating the need for responsible, scientifically defensible therapy and treatment services; and

WHEREAS, all minors in Kansas City, including the approximately 5,000 LGBTQ individuals under the age of 18 that reside in the city limits, that seek therapy or treatment to assist them in understanding their individual development of gender identity or their sexual orientation should be free from exposure to the serious harms and risks caused by conversion therapy or reparative therapy; and

WHEREAS, fifteen states, including Washington, DC, have enacted laws or regulations to ban conversion therapy against minors by licensed medical providers, and many bills have been filed in similar states, including Missouri's Youth Mental Health Preservation Act; and

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 190902

WHEREAS, the City Council of the City of Kansas City, Missouri, has a responsibility to protect the health, safety, and welfare of all people in our community, especially the physical and psychological well-being of minors, including LGBTQ youth; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 50, Code of Ordinances of Kansas City, Missouri, "Offenses and Miscellaneous Provisions," is hereby amended by enacting a new Section 50-234 in Article VII to protect the physical and psychological well-being of minors, including but not limited to lesbian, gay, bisexual, transgender and/or questioning youth, from exposure to the serious harms and risks caused by conversion therapy or reparative therapy by licensed providers, to read as follows:

Sec. 50-234. Conversion therapy of minors prohibited.

(a) *Policy.* The City of Kansas City, Missouri, has a compelling interest in protecting the physical and psychological well-being of minors, including but not limited to lesbian, gay, bisexual, transgender and/or questioning youth, from exposure to the serious harms and risks caused by conversion therapy or reparative therapy by licensed providers. These provisions are exercises of the police power of the city for the public safety, health, and welfare; and its provisions shall be liberally construed to accomplish that purpose.

(b) *Definitions.* As used in this section, the following terms shall have the meaning indicated in this subsection:

- (1) *Conversion therapy or reparative therapy* means any practice or treatment that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy shall not include counseling that provides support and assistance to a person undergoing gender transition, or counseling that provides acceptance, support and understanding of a person or facilitates a person's coping, social support, and development, including sexual orientation-neutral treatment interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change sexual orientation or gender identity.
- (2) *Gender identity* means the gender-related identity, appearance, expression, behavior or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.
- (3) *Minor* means a person less than 18 years old.

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 190902

- (4) *Provider* means any licensed medical or mental health professional including, but not limited to, licensed professional counselors, licensed psychologists, licensed clinical social workers, provisional licensed professional counselors, provisional and temporary licensed psychologists, licensed and provisional licensed marital and family therapists, psychiatrists, certified substance abuse counselors, certified school counselors, behavior analysts and any professional licensed under Chapters 334 and 337 of the Revised Statutes of Missouri.
- (5) *Sexual orientation* means the preference or practice of homosexuality, heterosexuality, asexuality, and bisexuality, or some combination thereof, by consenting adults, or as perceived by others, but not including sexual preference or practice between an adult and a minor.

(c) *Prohibited practice.* It shall be unlawful for any provider to provide conversion therapy or reparative therapy to a minor if the provider receives compensation in exchange for such services.

(d) *Penalty.* Any person that violates any provision of this section shall be subject to the civil penalty prescribed in section 1-17 but in no instance shall a violation of this article be punishable by imprisonment.

Section 2. That it is the City Council's intent that this ordinance regulate professional conduct and the manner in which therapeutic treatment is delivered, but does not otherwise prohibit or limit proponents or opponents of conversion therapy to speak about gender or sexual orientation conversion publicly and privately, including to their minors in forms other than therapy.

Approved as to form and legality:



Authenticated as Passed


Quinton Lucas, Mayor


Marilyn Sanders, City Clerk

NOV 14 2019

Date Passed


Matthew Gigliotti
Assistant City Attorney

EXHIBIT 2

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE enacting sections 667. and 5575., Jackson County Code, 1984, relating to a ban on conversion therapy for minors, with a penalty provision.

ORDINANCE NO. 5731, April 3, 2023

INTRODUCED BY Jalen Anderson and Manuel Abarca IV, County Legislators

WHEREAS, conversion therapy, also known as reparative therapy, ex-gay therapy, or sexual orientation and gender identity change efforts, is a range of discredited practices aimed at changing one's sexual orientation or gender identity; and

WHEREAS, a national community of professionals in education, social work, health, mental health, and counseling, including the American Psychological Association, American Psychiatric Association, American Medical Association, American Academy of Pediatrics, American Academy of Child and Adolescent Psychiatry (AACAP), American Counseling Association, American School Health Association, and the National Association of Social Workers, have determined that there is no scientifically valid evidence that supports the practice of conversion therapy; and

WHEREAS, such professionals have determined that there is no evidence that conversion therapy is effective or that an individual's sexual orientation or gender identity can be changed by conversion therapy; and

WHEREAS, such professionals have also determined that conversion therapy is not only ineffective, but is substantially dangerous to an individual's mental and physical well-being and has also been shown to contribute to depression, self-harm, low self-esteem, family rejection, and suicide; and

WHEREAS, the AACAP finds no evidence to support the application of any “therapeutic intervention” operating under the premise that a specific sexual orientation, gender identity, and/or gender expression is pathological; and,

WHEREAS, based on scientific evidence, the AACAP asserts that such “conversion therapies” (or other interventions imposed with the intent of promoting a particular sexual orientation and/or gender as a preferred outcome) lack scientific credibility and clinical utility; and,

WHEREAS, in contrast, hospitals in Kansas City, Missouri, provide evidence-based therapy or treatment to over 300 children annually, offering physical, mental, and social health services to children and their families as they navigate the process of gender identity development, illustrating the need for responsible, scientifically defensible therapy and treatment services; and,

WHEREAS, minors in Jackson County, including LGBTQ individuals under the age of 18, that seek therapy or treatment to assist them in understanding their individual development of gender identity or their sexual orientation should be free from exposure to the serious harms and risks caused by conversion therapy or reparative therapy; and

WHEREAS, twenty-six states, Washington, DC, and over 100 cities and counties have enacted laws, executive orders, or regulations to ban conversion therapy against minors by licensed medical providers, and many bills have been filed in similar states, including Missouri's Youth Mental Health Preservation Act; and

WHEREAS, the Legislature has a responsibility to protect the health, safety, and welfare of all people in our community, especially the physical and psychological well-being of minors, including LGBTQ youth, and in protecting its minors against exposure to serious harms caused by conversion therapy; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section A. Enacting Clause. Sections 667. and 5575., Jackson County Code, 1984, are hereby enacted, to read as follows:

667. Debarment of Agencies that Employ Persons Convicted of Conversion Therapy

No contract shall be awarded to any public or private outside agency that the County is not legally obligated to fund, if such agency employs any person convicted of conversion therapy of a minor, in violation of section 5575. of this code or any equivalent provision any state law or municipal or county code. This bar shall specifically apply to contracts awarded pursuant to sections 9056. and chapter 93 of this code.

5575. Conversion Therapy of Minors Prohibited.

5575.1 Definitions.

As used in this section, the following terms shall have the meaning indicated in this subsection:

a. *Conversion Therapy or Reparative Therapy* means any practice or treatment that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender or any therapeutic intervention imposed with the intent of promoting a particular sexual orientation and/or gender as a preferred outcome. Conversion Therapy shall not include counseling that provides support and assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-

neutral treatment interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.

b. *Gender identity* means the gender-related identity, appearance, expression, behavior or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

c. *Minor* means a person less than 18 years old.

d. *Provider* means any licensed medical or mental health professional including, but not limited to, licensed professional counselors, licensed psychologists, licensed clinical social workers, provisional licensed professional counselors, provisional and temporary licensed psychologists, licensed and provisional licensed marital and family therapists, psychiatrists, certified substance abuse counselors, certified school counselors, behavior analysts, and any professional licensed under chapters 334 and 337 of the Revised Statutes of Missouri. *Provider* does not mean a parent or grandparent who is a Provider as defined above who is acting substantially in the capacity of a parent or grandparent and not in the capacity of a licensed medical or mental health professional.

e. *Sexual Orientation* is the scientifically accurate term for a person's enduring physical, romantic, and/or emotional attraction to another person. *Sexual Orientations* can include heterosexual (straight), lesbian, gay, bisexual, queer, asexual, and other orientations. *Sexual Orientation* avoids the offensive term "sexual preference," which is used to inaccurately suggest that being gay, lesbian, or bisexual is voluntary and "curable." People need not have had specific sexual experiences to know their own sexual orientations; in fact, they need not have had any sexual experience at all.

5575.2 Prohibition.

It shall be unlawful for any Provider to engage in Conversion Therapy or Reparative Therapy with a Minor.

5575.3 Penalty Provision.

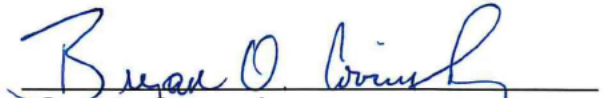
Any person found guilty of a violation of section 5575.2 of this section is subject to punishment pursuant to section 5520. of this chapter, except that no violation of this section shall be punishable by imprisonment.

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

I hereby certify that the attached ordinance, Ordinance No. 5731 introduced on April 3, 2023, was duly passed on April 3, 2023 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

This Ordinance is hereby transmitted to the County Executive for his signature.

4.3.2023
Date



Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5731.

4/6/23
Date



Frank White, Jr., County Executive

EXHIBIT 3

ARTICLE I. - IN GENERAL

DIVISION 1. - DEFINITIONS

Sec. 38-1. - Definitions.

- (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning or an alternative definition has been provided:
- (1) *Age* means an age of 40 or more years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of 85 and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least \$344,000.00.
 - (2) *City* means the City of Kansas City, Missouri.
 - (3) *Commission* means the city human rights commission.
 - (4) *Complainant* means any person claiming injury by the alleged violation of Chapter 213, RSMo, or of this chapter, including persons who believe they will be injured by an unlawful discriminatory practice that is about to occur.
 - (5) *Complaint* means a verified written statement of facts and circumstances, including dates, times, places and names of persons involved in any alleged violation of any provision of Chapter 213, RSMo, or of this chapter.
 - (6) *Contract* means any contract to which the city shall be a contracting party, except the following:
 - a. Personal services contracts.
 - b. Emergency requisitions for goods, supplies or services.
 - c. Impressed accounts in the nature of petty cash funds.
 - d. Contract or lease, the cost of which will not exceed \$300,000.00.
 - (7) *Covered multi-family dwelling* means a building consisting of four or more units if the building has one or more elevators or a ground floor unit in a building consisting of four or more units.
 - (8) *Department* means the department of civil rights and equal opportunity.
 - (9) *Director* means the director of the civil rights and equal opportunity department or their delegate.

- (10) *Disability* means with respect to employment, a person who is otherwise qualified and who, with reasonable accommodation, can perform the essential functions of the job in question. Generally, a person with a disability is any person who:
- a. Has a physical or mental impairment which substantially limits one or more major life activities;
 - b. Has a record of having such impairment; or
 - c. Is regarded as having such an impairment.
- (11) *Dwelling* means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.
- (12) *Employee* means any individual employed by an employer, but does not include an individual employed by his parents, spouse or child or any individual employed to render services as a domestic in the home of the employer.
- (13) *Employer* includes any person employing six or more employees.
- (14) *Employment agency* means any person, agency or organization, regularly undertaking, with or without compensation, to procure opportunities for employment or to procure, recruit, refer or place employees.
- (15) *Familial status* means one or more individuals, who have not attained the age of 18 years, being domiciled with:
- a. A parent or another person having legal custody of such individual or individuals; or
 - b. The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. No provision in this chapter regarding familial status shall apply to housing for older persons, as defined in section 3607 of title 42 of the United States Code Annotated.
- (16) *Family* includes a single individual.
- (17) *Franchise holder* means any individual, partnership, corporation, association or other entity, or any combination of such entities, holding a franchise hereafter granted or renewed by the city.
- (18) *Gender identity* means the actual or perceived appearance, expression, identity or behavior of a person as being male or female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth.

- (19) *Labor organization* means any organization which exists for the purpose in whole or in part of collective bargaining or for dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.
- (20) *Owner* means any person who:
- a. Has legal title to any building or structure with or without accompanying actual possession thereof; or
 - b. Has charge, care or control of any building or structure or part thereof as agent or personal representative of the person having legal title to the building or structure or part thereof; or
 - c. Is an agent or designee of a person listed in subsections a. or b. herein; or
- (21) *Performance of work* means the furnishing of any personal service, labor, materials or equipment used in the fulfillment of a contractor's obligation under a city contract.
- (22) *Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and other organizations; except the term "person" does not include any local, state or federal governmental entity.
- (23) *Prohibited dress code* means a set of rules governing, prohibiting or limiting access to a place or business, or portion thereof, defined herein as a "public accommodation" because of any of the following:
- a. The wearing of jewelry, the manner in which jewelry is worn or the combination of items of jewelry worn,
 - b. The wearing of a garment or headdress which is generally associated with specific religions, national origins or ancestry,
 - c. The length of the sleeve of a shirt or the leg of a pair of pants or shorts is too long, except that nothing herein shall be construed to prohibit a dress code that requires the wearing of a shirt,
 - d. The style, cut or length of a hair style,
 - e. The colors of the garments,
 - f. In conjunction with a major Kansas City sporting event the wearing of athletic apparel which displays either a number, a professional or college team name or the name of a player;
 - g. The wearing of tee-shirts, except that nothing herein shall be construed to prohibit a dress code that requires such tee-shirts to have sleeves, or to prohibit a dress code that does not allow undershirts, undergarments, or tee-shirts of an inappropriate length.

Designer tee-shirts, which are fitted and neat, cannot be banned.

- (24) *Public accommodation* means any place or business offering or holding out to the general public goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public, or providing food, drink, shelter, recreation or amusement, including but not limited to:
- a. Any inn, hotel, motel or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence.
 - b. Any restaurant, tavern, cafeteria, lunchroom, lunch counter, soda fountain or other facility principally engaged in selling food for consumption on the premises, including but not limited to any such facility located on the premises of any retail establishment.
 - c. Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof.
 - d. Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment.
 - e. Any public facility owned, operated or managed by or on behalf of this city or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds.
 - f. Any establishment which is physically located within the premises of any establishment otherwise covered by this definition or within the premises in which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.
 - g. Any institution, association, club or other entity that has over 250 members, provides regular meal service, and regularly receives payment for meals, beverages, dues, fees, the use of its facilities or services directly or indirectly from or on behalf of nonmembers in furtherance of trade or business.
- (25) *Redevelopment area* means a tax increment redevelopment area as defined in section 99.805(11); RSMo, a planned industrial expansion project area as defined in section 100.300, et seq., RSMo; an urban renewal project area or land clearance project area as defined in section 99.300, et seq., RSMo; any area under the control of the port authority of Kansas City, Missouri, or subject to a contract, lease or other instrument to which the port authority is a party; or an area determined by the city to be blighted pursuant to chapter 353, RSMo.
- (26) *Rent* means to lease, sublease, let or otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(27)

Respondent means any person against whom it shall be alleged by complaint or identified during the course of an investigation that such person has violated, is violating or is about to violate any provision of Chapter 213, RSMo, or this chapter.

- (28) *Screening practices* means the standard manner by which an owner evaluates and assesses prospective tenants prior to entering into a rental agreement.
- (29) *Sex* shall include sexual harassment.
- (30) *Sexual orientation* means actual or perceived heterosexuality, homosexuality or bisexuality.
- (31) *Source of income* means the type of income or finances used by an individual to acquire goods and services for themselves, their dependents, or others. It includes reasonably verifiable and lawful income from any occupation, profession, contract, agreement, activity, any type of private, non-profit, or government assistance or payment such as federal housing choice vouchers as authorized by Section 8 of the Housing Act of 1937, military pension payments, disability payments, court ordered payments, or any other form of reasonably verifiable and lawful income, including cash or tipped wages and payments from strike funds. Source of income includes the program requirements for any type of private, non-profit, or government assistance or payment, unless compliance with such requirements would require unreasonable structural modifications to the dwelling.
- (32) *Subcontractor* means any individual, partnership, corporation, association or other entity, or other combination of such entities, which shall undertake, by virtue of a separate contract with a contractor, to fulfill all or any part of any contractor's obligation under a contract with the city, or who shall exercise any right granted to a franchise holder, and who has 50 or more employees exclusive of the parents, spouse or children or such subcontractor.
- (33) *Systematic investigation* means a series of investigations, as defined in section 38-23, sufficient to understand an owner's common and usual screening practices and determine whether those practices violate any ordinance.
- (34) *Unlawful discriminatory practice* means any discriminatory practice as defined and prohibited by sections 38-103, 38-105, 38-107, 38-109, 38-111 and 38-113.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 180034, § 1, 2-1-18; Ord. No. 180724, § 1, 2-7-19; Ord. No. 190380, § 1, 5-23-19; Ord. No. 200837, § 1, 10-1-20; Ord. No. 210645, § 5, 8-12-21; Ord. No. 240082, § 1, 2-1-24; Ord. No. 231019, § 1, 1-25-24)

Secs. 38-2—38-20. - Reserved.

ARTICLE II. - ADMINISTRATION

DIVISION 1. - ENFORCEMENT

Sec. 38-21. - Powers and duties of director.

The director is hereby charged with administration and enforcement of all sections of this chapter and is hereby authorized and empowered to do the following:

- (1) *Rules and regulations.* To adopt, amend and enforce rules and regulations relating to any matter or thing pertaining to the administration of this chapter.
- (2) *Complaint investigation.* To receive, investigate and, upon finding probable cause on any complaint of violation of RSMo ch. 213, to bring such complaint before the human rights commission. If the director finds probable cause to believe that a violation of this chapter has occurred, he or she may refer the matter to the city counselor's office for prosecution in municipal court. Any staff assigned to assist the commission shall be supervised by the director of civil rights and equal opportunity. The director shall not have the power to process complaints of discrimination brought against the city and shall defer any such complaints to the state commission on human rights or any appropriate federal agency for processing.
- (3) *Authority regarding discrimination within city administration.* To investigate and recommend to the city manager any policy changes or specific actions that the director determines are necessary to ensure that the city administration is in compliance with the provisions of this chapter or with state and federal discrimination laws.
- (4) *Initiation of complaints.* Whenever the director has reasonable cause to believe that an unlawful discriminatory practice has occurred, he or she may initiate a complaint alleging violation of any section RSMo ch. 213, or of this chapter.
- (5) *Compliance investigation.* To investigate, survey and review any and all affirmative action programs, city contracts and franchises which are subject to this chapter and to take such action with respect thereto as shall ensure compliance with this chapter.
- (6) *Conciliation.* To attempt to eliminate any unlawful discriminatory practice or any other violation of the terms of this chapter by means of conference, conciliation, persuasion and negotiation and to enter into conciliation agreements.
- (7) *Authority to dismiss complaints.* To dismiss any complaint upon finding such complaint to be frivolous or without merit on its face or upon a finding that the allegedly unlawful discriminatory practice has been eliminated through conciliation.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 210645, § 5, 8-12-21)

Sec. 38-22. - Reserved.

Sec. 38-23. - Complaint procedure.

(a) *Filing of complaint.*

- (1) Any person claiming injury by an allegedly unlawful discriminatory practice may, by themselves, a representative designated in writing, or a city official, submit a complaint with the director by, emailing an email address designated by the civil rights enforcement office, visiting the civil rights enforcement office in person during business hours, or calling 311 to begin the process of submitting a formal verified complaint. This complaint shall state the name and address of the person or business entity alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the director for the investigation of the complaint.
- (2) Any complaint filed pursuant to Chapter 213, RSMo, or this chapter must be filed within 180 days after the alleged unlawful discriminatory practice could have been discovered through reasonable diligence.
- (3) The city shall provide interpretation and translation services to any person attempting to submit a complaint pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et. seq. and Ex. Ord. No. 13166.

(b) *Investigation.* After the filing of any complaint other than those described in section 38-23(c), the director shall:

- (1) During the period beginning with the filing of such complaint and ending with the notice of public hearing before the commission, to the extent possible, engage in conciliation with respect to such complaint. Any agreement reached during these conciliation efforts shall conform to the requirements of subsection (e) of this section.
- (2) Promptly serve notice upon the complainant acknowledging and advising the complainant of the time limits and choice of forums provided under Chapter 213, RSMo, and this chapter.
- (3) Promptly serve notice on the respondent or the person charged with a discriminatory practice advising of his or her procedural rights and obligations under this chapter, together with a copy of the complaint.
- (4) Commence investigation of the complaint within 30 days of the receipt of the complaint.
- (5) For housing and public accommodation complaints, complete the investigation of the complaint within 100 days unless it is impracticable. If the director is unable to complete the investigation within 100 days, the director shall notify the complainant and the respondent in writing of the reasons for not doing so.
- (6) Make final administrative disposition of a housing or public accommodations complaint within one year of the date of receipt of a complaint unless it is impracticable to do so, in which case the director shall notify the complainant and respondent in writing of the reasons

for not doing so.

- (c) *Source of income investigation.* After the filing of any complaint solely pertaining to source of income discrimination or discrimination as defined in section 38-105(d)(10)–(14), the director shall:
- (1) To the extent possible, engage in conciliation with respect to such complaint during the period beginning with the filing of such complaint and ending with either the issuance of a fine or any other punitive measures by the city or a finding of no probable cause pursuant to subsection (d) of this section. Any agreement reached during these conciliation efforts shall conform to the requirements of subsection (e) of this section.
 - (2) Promptly serve notice upon the complainant acknowledging and advising the complainant of the time limits and choice of forums provided under this chapter.
 - (3) Promptly serve notice on the respondent or the person charged with a discriminatory practice advising of his or her procedural rights and obligations under this chapter, together with a copy of the complaint.
 - (4) Commence investigation of the complaint within ten business days of the receipt of the complaint.
 - (5) Complete the investigation of the complaint within 30 days of the receipt of the complaint. If the director is unable to complete the investigation within 30 days, the director shall notify the complainant and the respondent in writing of the reasons for not doing so.
- (d) *No probable cause finding.* If it shall be determined after such investigation that no probable cause exists for crediting the allegations of the complaint, the director shall cause to be issued and served upon all parties, written notice of such determination.
- (e) *Probable cause finding; conciliation.*
- (1) If it shall be determined after such investigation that probable cause exists for crediting the allegations of the complaint, the director shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. Each conciliation agreement shall include provisions requiring the respondent to refrain from the commission of such allegedly unlawful discriminatory practice in the future and may contain such further provisions as may be agreed upon by the complainant and the respondent subject to the approval of the director. The director shall not disclose what has transpired in the course of such endeavors and shall not make or maintain a public record of such endeavors as the term "public record" is defined in Chapter 610, RSMo.
 - (2) If the respondent, the complainant and the director agree upon conciliation terms, the director shall compile the terms of the conciliation agreement for the signature of the complainant, respondent and director.

(f)

Failure to conciliate; hearing or prosecution. If the director believes that they have failed to eliminate an allegedly unlawful discriminatory practice through conciliation, the director shall cause to be issued and served a written notice thereof. If the complaint alleges a discriminatory practice prohibited by this chapter, the director shall refer the matter to the city counselor for possible prosecution in municipal court or administer an administrative citation pursuant to section 38-101, and the director shall also begin a systematic investigation of all the respondent's rental properties in Kansas City and their screening practices. If the complaint alleges a discriminatory practice prohibited by Chapter 213, RSMo, the director shall refer the matter to the commission for hearing.

- (g) In the event any section, paragraph, sentence, clause, phrase or portions of this section is declared invalid for any reason, the remainder of this section shall remain in full force and effect.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 231019, § 1, 1-25-24)

Sec. 38-24. - Reserved.

Sec. 38-25. - Hearing or civil action.

- (a) *Hearing notice.* Upon referral from the director of a matter to be set for hearing, the commission shall set a date upon which a hearing shall be held by a hearing examiner appointed by the city and shall notify all parties of the date thereof. The notice shall be served upon the parties at least 20 days prior to the date of the hearing. A copy of the complaint shall be attached to each such notice.

- (b) *Election to file civil action in housing cases.*

- (1) When a written notice of hearing on a complaint of housing discrimination is issued, a complainant or respondent may elect to have the claims asserted in that complaint decided in a civil action, in accordance with RSMo § 213.076. Written notice of an election made under this subsection shall be filed with the commission with notice to all parties within 20 days of the date on which the notice of hearing was mailed.
- (2) If such an election is made, the director shall request that the city counselor file suit on behalf of the city and the complainant unless the complainant chooses to bring an action through his or her own private counsel. Within 30 days of the election, the city counselor shall commence, maintain and pay the costs of a civil action in the name of the city and any complainant not represented by private counsel seeking relief as authorized by RSMo ch. 213; however, before such suit is filed by the city on behalf of any complainant, the complainant will agree in writing that any costs or attorneys' fees recovered in such an action will be remitted to the city. The complainant shall have no liability to the city for costs and attorneys' fees except to the extent that such costs and attorneys' fees are awarded by the court to the complainant and paid by a respondent (defendant). Should the city counselor prevail in such suit, he is hereby

authorized and directed to seek and recover costs and attorneys' fees. Any attorneys' fees or costs recovered by the city or by a complainant and remitted to the city shall be paid into the general fund of the city.

(c) *Record of proceedings.* The hearing examiner shall cause all proceedings before it to be either tape recorded or held before a certified court reporter.

(d) *Hearing procedure.* The hearing shall be conducted in accordance with RSMo ch. 536, and with rules adopted by the commission. The commission or the hearing examiner appointed to hear a matter may subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and require the production for examination of any books, papers or other materials relating to any matter under investigation or in question before the commission.

(Ord. No. 130041, § 5, 3-21-13)

Sec. 38-26. - Reserved.

Sec. 38-27. - Discovery.

In any case which is before the commission, any party may obtain discovery in the same manner, upon and under the same conditions and upon the same notice and other requirements as is or may hereafter be provided for with respect to discovery in civil actions by rule of the supreme court of the state for use in circuit court. The designated hearing examiner for the human rights commission shall have the same responsibilities and authority with respect to discovery as is vested in circuit judges by supreme court rule. Enforcement of discovery shall be by the same methods, terms and conditions as provided by supreme court rule in civil actions in the circuit court; except that no order issued pursuant to such rule which requires a physical or mental examination, permits entrance upon land or inspection of property without permission of the owner, or purports to hold any person in contempt shall be enforceable except upon order of the circuit court after notice and hearing. The hearing examiner may limit discovery as is appropriate in each case.

(Ord. No. 130041, § 5, 3-21-13)

Sec. 38-28. - Reserved.

Sec. 38-29. - Penalty for refusal or failure to obey subpoena.

If any person fails, neglects or refuses to obey all the terms of any subpoena or subpoena duces tecum issued by the human rights commission or its designated hearing examiner, such failure shall be dealt with as provided by the applicable section of RSMo. ch. 536.

(Ord. No. 130041, § 5, 3-21-13)

Sec. 38-30. - Reserved.

Sec. 38-31. - Decision and order by commission.

- (a) The hearing examiner shall make findings of fact and conclusions of law and shall recommend to the commission an order granting any relief that is necessary to remedy any discrimination found and which is consistent with RSMo § 213.075, or dismissing the complainant as to the respondent, in accordance with such findings. The commission or a panel of at least three members of the commission shall review the record, findings and recommended order of the hearing examiner. The commission or panel shall thereafter accept or amend the recommended order, which shall become the order of the commission. All orders shall be served on the complainant and respondent and such other public officers as the commission deems proper.
- (b) The order of the commission shall not become final for appeal purposes until it is filed with and approved by the state commission on human rights, in accordance with the procedures set forth in RSMo § 213.135.
- (c) After rendition of the commission's decision on a contract compliance or affirmative action matter, the contracting officer shall serve upon the respondent a copy of such order and decision. The respondent shall have 30 days after delivery of the order and decision to demonstrate to the director willingness to comply with the terms and conditions of such order, failing which the contracting officer shall proceed to cancel, terminate or suspend the contract, or declare the contractor ineligible to receive any city contract or franchise for a period of one year, as such order may require. Willingness of the contractor to comply with such order may be evidenced by his or her written agreement to comply with the terms and conditions set forth in the order.

(Ord. No. 130041, § 5, 3-21-13)

Sec. 38-32. - Reserved.

Sec. 38-33. - Confidentiality of statements and documents.

No documents which have been submitted nor anything which has been said or done during the course of a conciliation endeavor or as a result of an affirmative action program submission shall be made public or used as evidence in any subsequent proceedings without the written consent of the parties concerned, except as such statements or documents are public records as defined by state law or except when such statements or documents are used as evidence before a hearing examiner for the human rights commission.

(Ord. No. 130041, § 5, 3-21-13)

Sec. 38-34. - Reserved.

Sec. 38-35. - Suspension or revocation of business license.

Upon the final determination of any violation of this chapter, the license of such violator to do business in this city may be suspended for up to 30 days; and, upon a third final determination of any violation of this chapter within five years, the license of such person to do business in this city shall be revoked.

(Ord. No. 130041, § 5, 3-21-13)

Secs. 38-36—38-40. - Reserved.

DIVISION 2. - HUMAN RIGHTS COMMISSION

Footnotes:

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Cross reference— *Kansas City Lesbian, Gay, Bisexual, Trans and Queer Commission (LGBTQC), § 2-970.60 et seq.*

Sec. 38-41. - Establishment; membership.

- (a) There shall be a human rights commission, formerly known as the civil rights board, which shall be an agency as such term is defined in RSMo § 536.010. Such commission shall comprise seven members, including a chairperson, to be appointed by the mayor. The commission shall be a local commission as authorized by RSMo §§ 213.020 and 213.135, and as such shall have the power and authority to hear complaints of violations of RSMo ch. 213, in accordance with procedures set forth in RSMo ch. 213, and in this chapter.
- (b) All members shall serve without compensation and shall serve initial staggered terms at the discretion of the council and mayor of three years for three members, two years for three members, and one year for one member; provided that all members shall continue in office until their respective successors shall have been appointed and qualified. In the event of death or resignation of any appointee, a successor shall be appointed by the original appointing authority to serve during the unexpired portion of his or her term.

(Ord. No. 130041, § 5, 3-21-13)

Sec. 38-42. - Reserved.

Sec. 38-43. - Powers and duties.

- (a) The commission may adopt rules of procedure consistent with chapters 213 and 536, RSMo, and this chapter.

- (b) The commission shall prepare an annual report to be presented to the mayor and council concerning the conditions of minority groups in the city, with special reference to discrimination, civil rights, human relations, hate group activity, bias crimes and bias practices and attitudes among institutions and individuals in the community. The report may also include other social and economic factors that influence conditions of minority groups, as well as the causes of these conditions and the effects and implications to minority groups and the entire city. In preparation for the report the commission may conduct hearings and conduct whatever other research is necessary. The report shall include appropriate recommendations to the mayor and the council.
- (c) The commission shall form task forces as follows:
 - (1) The commission shall form task forces including: youth, business, media, education, law enforcement, religion, labor, LGBTQ+, metropolitan area cooperation, bias incident, and others as may be deemed appropriate.
 - (2) One member of each task force may be appointed from each councilmanic district, that member to be agreed upon jointly by the councilmembers from that district. Councilmembers may recommend additional members as appropriate.
 - (3) Except as provided in subsection (c)(2) of this section, the chairperson of the commission shall appoint the chairs and members of the task forces.
 - a. For the bias incident task force, the chairperson shall engage law enforcement, community groups, and other stakeholders in the metropolitan area to serve as members.
 - (4) The task forces shall consist of no more than 15 members except where the commission chairperson specifically approves additional members.
 - (5) The task forces will assist the commission in the preparation of the commission's annual report to the mayor and council.
- (d) The commission is empowered to investigate hate group activity and incidents of bias crimes and work with law enforcement agencies and others to implement programs and activities to combat hate group activity and bias crimes.
- (e) The commission may seek information from any and all persons, agencies and businesses, in both the public and private sectors, to identify and investigate problems of discrimination and bias as they affect the citizens of the city either directly or indirectly.
- (f) The commission may cooperate with public and private educational institutions at primary, secondary and post-secondary levels to foster better human relations among the citizens of the city and within the metropolitan Kansas City area.
- (g) The commission may work with civil rights organizations, community organizations, law enforcement agencies, school districts and others to collect and review data relating to patterns of discrimination, bias crimes, hate group activity, and general issues of civil and human rights.

- (h) The commission may conduct studies, assemble pertinent data, implement educational programs and organize training materials for use by the commission to assist civil and human rights agencies, neighborhood organizations, educational institutions, law enforcement agencies, labor unions and businesses and others to prevent discrimination.
- (i) The commission may serve as an advocate to prevent discrimination and bias crimes.
- (j) The commission chairperson may appoint such committees from its membership or other citizens to fully effectuate the purpose of this chapter.
- (k) The commission is empowered to hold hearings regarding issues of general or specific civil and human rights affecting the citizens of the city, to review decisions of hearing examiners appointed by the city to hear charges of violations of chapter 213, RSMo, to administer oaths, and to take the testimony of any person under oath.
- (l) Based upon its hearings or those held by its hearing examiners, the commission shall issue such findings as it deems appropriate under the circumstances. If the commission finds that a respondent has engaged in an unlawful discriminatory practice as defined in chapter 213, RSMo, the commission shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice. The order shall require the respondent to take such affirmative action or award such relief as in the commission's judgment will implement the purposes of this chapter and of chapter 213, RSMo, including but not limited to the assessment of civil penalties, reinstatement, back pay, making available the dwelling or public accommodation, actual damages, or any other relief that is deemed appropriate and which is consistent with chapter 213, RSMo.
- (m) Should the respondent also be a city contractor, upon complaint by the civil rights and equal opportunity department and after hearing duly held, the commission shall make findings of fact and conclusions of law; and when it finds a breach of conditions of any contract or franchise wherein compliance with this chapter is assured, it shall make an order specifying the terms and conditions under which any contract or franchise will be continued in force, or in the alternative shall order the cancellation, termination or suspension of such contract or franchise, or order that such contractor or franchise holder be ineligible to receive any city contract or franchise for a period of one year.
- (n) The chairperson may appoint hearing review panels composed of not less three persons to review hearings conducted by a hearing examiner regarding violations of chapter 213, RSMo. Panels shall be appointed on a rotating basis to ensure that all commission members have an opportunity to review recommended findings of the hearing examiner. Any member of the commission who has a conflict of interest or the appearance of a conflict of interest regarding an issue to be heard by the commission will not participate in the proceedings regarding that issue.
- (o)

The commission is empowered to hold hearings, upon complaint of an aggrieved party or upon an investigation by the director to determine whether the owner, operator, agent or an employee of a business or facility within a redevelopment area is using a prohibited dress code. Based upon its hearings, or those held by its hearing examiners, the commission shall issue such findings as it deems appropriate under the circumstances. If the commission finds that the owner, operator or employee of such a business or facility has used, or is using, a prohibited dress code, and, therefore, has engaged in an unlawful discriminatory practice as defined in chapter 213, RSMo, or in section 38-113, the commission shall issue and cause to be served on the owner, operator, agent or employee an order requiring the owner, operator or employee to cease and desist from the use of the prohibited dress code. The order may also require the owner, operator, agent or employee to take further affirmative action or award such relief as in the commission's judgment will implement the purposes of this chapter and of chapter 213, RSMo, including but not limited to the assessment of civil penalties, making access available to those individuals denied access to the public accommodation because of the use of a prohibited dress code, actual damages, or any other relief that is deemed appropriate and which is consistent with chapter 213, RSMo, and chapter 38, Code of Ordinances.

- (p) The commission shall study, advise and make other recommendations for legislation, policies, procedures and practices of the city, other businesses entities, and other public entities as are consistent with the purposes of this chapter.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 210645, § 5, 8-12-21; Ord. No. 220752, § 1, 9-22-22)

Secs. 38-44—38-60. - Reserved.

DIVISION 3. - BIAS OFFENSE REPORTING

Sec. 38-61. - Reporting responsibility.

- (a) *Purpose.* The police department of the city shall collect and maintain information relating to alleged crimes and ordinance violations occurring within the city in which the evidence of the offense indicates it was motivated by bigotry or bias related to the race, religion, sexual orientation or ethnicity of individuals or groups. For purposes of this section the following crimes and ordinance violations contained in the Code of Ordinances are included:

- (1) Section 1-17(d), General penalty; continuing violations;
- (2) Section 50-9, Stalking;
- (3) Section 50-102, Trespass generally;
- (4) Section 50-121, Tampering with or damaging property of another;
- (5) Section 50-124, Institutional vandalism;

- (6) Section 50-125, Defacing property with aerosol paint and like materials;
- (7) Section 50-159, Harassment;
- (8) Section 50-164, Disorderly conduct;
- (9) Section 50-167, Disturbing the peace;
- (10) Section 50-168, Bodily injury—Attempting;
- (11) Section 50-169, Same—Inflicting;
- (12) Section 50-170, Assault on persons or on route to or from school premises; disturbing school activities;
- (13) Section 50-171, Aggravated trespass;
- (14) Section 50-261, Unlawful use of weapons—Generally;
- (15) Section 64-11, Throwing missiles;
- (16) Section 64-12, Throwing objects from buildings.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 240502, § 1, 6-13-24)

Sec. 38-62. - Reserved.

Sec. 38-63. - Reporting system.

The police department of the city shall develop a system by which the required reporting shall be accomplished. The reporting system shall include monthly distribution of the information collected to the civil rights and equal opportunity department of the city, and to the United States Department of Justice, Community Relations Service, Central Region.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 210645, § 5, 8-12-21)

Sec. 38-64. - Reserved.

Sec. 38-65. - Incident reports.

- (a) Whenever any police officer has identified a victim of an alleged bias crime or city ordinance violation, the police department of the city shall, to the extent known, supply the name, address and telephone number of the victim to the director, together with other relevant information concerning the victim. Whenever any police officer has identified an incident that does not constitute a crime or city ordinance violation the officer will refer the victim to the director. The director shall establish a telephone line for citizens to call to report incidents of possible bias incidents that are not crimes or city ordinance violations.
- (b) The purposes of this reporting are to permit the director to:

(1)

Contact the victim for the purpose of offering to help the victim deal with the police department, prosecutors and other interested agencies, and to help secure any other support which may be available to the victim;

(2) Determine whether the incident is related to a pattern of discrimination, or if, due to bias-related tensions in the area where the incident occurred, further incidents are likely to occur if remedial action is not taken; and

(3) Make such reports available to the human rights commission's bias incident task force without disclosing confidential information.

(c) The commission's bias incident task force shall file a quarterly report with the mayor and city council containing a description of incidents, whether such incidents were isolated or a pattern, the location of incidents to include council district, and recommendations.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 210645, § 5, 8-12-21; Ord. No. 220752, § 1, 9-22-22)

Secs. 38-66—38-100. - Reserved.

Sec. 38-101. - Prohibited.

(a) Discriminatory practices, as defined in sections 38-102, 38-103, 38-105, 38-107, 38-109, 38-111 and 38-113, are prohibited. Any person who engages in a prohibited discriminatory practice other than source of income discrimination shall be guilty of an ordinance violation, punishable by a fine of not more than \$1,000.00, by imprisonment of not more than 180 days, or by such fine and imprisonment.

(b) Any person found in violation of a prohibited discriminatory practice or retaliation based on source of income, which includes, among other things, all violations of section 38-105(d), shall be subject to a fine of \$1,000.00.

(1) The director shall refer any person found in violation of a prohibited discriminatory practice or retaliation based on source of income more than once within a 12-month period to the director of the health department and recommend that the person's rental permits be placed on special probationary status pursuant to section 34-855(6) of the City's Code of Ordinances pending the completion of a corrective action plan prescribed by the director.

(c) Any respondent found in violation of any portion of the terms included in a conciliation agreement signed by the respondent and the director shall be guilty of an ordinance violation and subject to a fine of \$1,000.00.

(d) Nothing in sections 38-102, 38-103, 38-105, 38-107, 38-109, 38-111 and 38-113 shall be read or interpreted to require the imposition of quotas or any form of affirmative action to remedy any past practices.

(e)

Any fine which is not paid on or before its due date shall accrue a one-time penalty in an amount equal to the original fine. Said penalty shall be collected in the same manner as the underlying fine.

(f) Revenue from fines incurred pursuant to section 38-105(d) shall be allocated to the civil rights and equal opportunity department to carry out enforcement.

(g) In the event any section, paragraph, sentence, clause, phrase or portions of this section is declared invalid for any reason, the remainder of this section shall remain in full force and effect.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 190380, § 1, 5-23-19; Ord. No. 240082, § 2, 2-1-24; Ord. No. 231019, § 1, 1-25-24)

Sec. 38-113. - Discriminatory accommodation practices.

(a) It shall be a discriminatory accommodation practice for any owner, agent or employee of any place of public accommodation, directly or indirectly, to refuse, withhold from or deny to any person any of the accommodations mentioned in this chapter or to discriminate against any person in the furnishing thereof on account of race, religion, color, ancestry, national origin, sex, marital status, familial status, disability, sexual orientation or gender identity of such person, or directly or indirectly to publish, circulate or display any written or printed communication, notice or advertisement to the effect that any of the accommodations or the facilities of such place of public accommodation will be refused, withheld from or denied to any person on account of race, religion, color, ancestry, national origin, sex, disability, marital status, familial status, sexual orientation or gender identity, or that, for such reasons, the patronage or custom of any person described in this section is unwelcome or objectionable or not acceptable to such place.

(b) It shall be a discriminatory accommodation practice for any owner, agent, operator or employee of a business or facility within a redevelopment area to use a prohibited dress code as defined in section 38-1, directly or indirectly, to refuse, withhold from or deny to any person any of the accommodations mentioned in this chapter or to discriminate against any person in the furnishing thereof on account of race, religion, color, ancestry, national origin, sex, marital status, familial status, disability, sexual orientation or gender identity of such person. Any dress code enforced in a redevelopment area or in any establishment with such area must be posted in accordance with the requirements of section 10-331(d), and must contain the phone number of the city's civil rights and equal opportunity department and a phone number of a representative of the establishment who is available to respond to complaints regarding the enforcement of the dress code during all hours when the establishment is open or such dress code is in effect. Any such dress code shall list all prohibited items of dress. Notwithstanding the foregoing, nothing herein shall be construed as prohibiting:

(1) Any owner or operator of a business or facility within a redevelopment area from establishing an employee dress code or requiring that an employee abide by the employee dress code while at work.

- (2) Any owner, agent, operator or employee of a business or facility within a redevelopment area from affirmatively requiring the wearing of specified articles of clothing, which may include collared shirts and ties, sports jackets, business suits, business casual, formal clothing or smart casual clothing in keeping with the ambiance and quality of the particular business or facility and formal footwear, so long as the requirements are enforced with regard to each and every patron, regardless of race, religion, color, ancestry, national origin, sex, marital status, familial status, disability, sexual orientation or gender identity.

(Ord. No. 130041, § 5, 3-21-13; Ord. No. 210645, § 5, 8-12-21)

EXHIBIT 4

AMENDED COMPLAINT OF DISCRIMINATION

C20-PA6244

REPLY TO:

Louisville Metro Human Relations Commission
745 West Main Street, Suite 251
Louisville, KY 402



Louisville Metro Human Relations Commission Enforcement Board

NAME TELEPHONE NUMBER

745 W. Main Street Louisville KY 40202
STREET ADDRESS CITY STATE ZIP CODE

WAS THE DISCRIMINATION IN ... (CHECK ONE)

- [] Employment [] Housing [X] Public Accommodations [] Hate Crimes

BECAUSE OF ... (CHECK ONE)

- [] Race [] Age [] National Origin [] Sexual Orientation [X] Gender Identity
- [] Sex [] Handicap [] Retaliation [] Religion [] Other

Who discriminated against you? Give name and address of employer, labor organization, employment agency, apprenticeship committee, licensing agency, public accommodation, real estate broker or lender or apartment manager.

LIST ALL:

Scooter's Triple B's

NAME TELEPHONE NUMBER

3840 S. Hurstbourne Pkwy Louisville KY 40299
STREET ADDRESS CITY STATE ZIP CODE
AND (OTHER PARTIES, IF ANY)

THE ACTUAL DATE OF THE MOST RECENT DATE OF ALLEGED DISCRIMINATION:

February 9 2020
MONTH DAY YEAR

LOUISVILLE METRO
HUMAN RELATIONS COMMISSION

AMENDED COMPLAINT OF DISCRMINATION UNDER LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT CODE OF ORDINANCES, CHAPTER 92

On or around February 9, 2020, a Facebook post from The Fairness Campaign, brought attention to the establishment known as Scooter's Triple B's, located at 3840 S. Hurstbourne Parkway, Louisville, Jefferson County, Kentucky, and defined as a public accommodation under Louisville/Jefferson County Metro Government Code of Ordinances ("LMCO"), Chapter 92, that the restaurant has a sign posted stating "Attention: We Are Politically Incorrect. There Are No Transgender Restrooms, We Support Our Troops, We Salute Our Flag, And We Believe We're One Nation Under God. If You Do Not Like This, Get Your Politically Correct Ass Outta Here!"

In a follow up Facebook posting, Scooter's Triple B's also stated, "Yes our sign says we do not have transgender restrooms. They just need to use the one that goes with the gender they were born with." LMCO 92.05(B) ("Unwelcome Clause") states it is an unlawful practice for a place of public accommodation to publish or circulate a communication or advertisement which indicates the availability of the public accommodation's facilities may be refused, withheld or denied based on an individual's gender identity. LMCO § 92.02 defines Gender Identity as "[m]anifesting an identity not traditionally associated with one's biological maleness or femaleness."

By Scooter's Triple B's publication of the aforementioned sign and Facebook comments, this Complaint alleges Scooter's Triple B's has violated the Unwelcome Clause, causing Patrons of a protected class to feel unwelcome in its place of public accommodation, all of which has been done in violation of Louisville/Jefferson County Metro Government Code of Ordinances, Chapter 92.

Marie S. Dew
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 4th DAY OF May, 2020.
Notary Public, State at Large, KY
MY COMMISSION EXPIRES ON My commission expires Mar 18, 2022

[Signature]
SIGNATURE OF NOTARY PUBLIC

Case Name: LMHRC- Enforcement Board v. Scooter's Triple B's

Case Number: C20-PA6244 (LOCAL)

REPLY TO RESPONSE TO AMENDED COMPLAINT

The Human Relations Commission - Enforcement Board ("HRC"), by and through the Jefferson County Attorney, hereby replies to Respondent's Response to the Amended Complaint and respectfully states as follows:

The purpose of this reply is to respond to the defenses asserted by the Respondent in its Response to the Amended Complaint. Specifically, the HRC responds to the contention that Scooter's is not in violation of the law because nothing in federal, state, or local law requires Scooter's to have transgender restrooms and its sign merely states a policy that is in full compliance with the law. Furthermore, the HRC responds to the assertion that the sign cannot be penalized because it is truthful commercial speech entitled to First Amendment Protection and the "Unwelcome Clause" itself is an unconstitutional, content-based restriction on speech.

ARGUMENT

I. The ordinance does not penalize Scooter's for failure to comply with public accommodations law, but LMCO § 92.05(B), which defines unlawful practices in connection with public accommodations.

The Respondent claims that its sign cannot violate LMCO § 92.05(B) because "there is no requirement at the federal, state, or local level that public accommodations have transgender restrooms or that customers have to be allowed to use restrooms for the opposite sex." However, this assertion misstates the Complaint of the HRC. While LMCO § 92.05(B) falls under "Unlawful Practices in Connection with Public Accommodations," the ordinance does not penalize failure to provide transgender restrooms or failure to allow a customer to use restrooms

for the opposite sex. Rather, LMCO § 92.05(B) prohibits communications which indicate that public accommodations will be denied because of gender identity. As the Respondent's Response to Amended Complaint explains, they may lawfully segregate their restrooms. However, under LMCO § 92.05(B), Respondent may not display communications that indicate those restrooms will be denied to customers who "[manifest] an identity not traditionally associated with one's biological maleness or femaleness." LMCO § 92.02. Scooter's has chosen to display a sign which indicates restroom facilities may be denied to transgender customers because of inconsistent political values:

"Attention: We Are Politically Incorrect. There Are No Transgender Restrooms, We Support Our Troops, We Salute Our Flag, And We Believe We're One Nation Under God. If You Do No Like This, Get Your Politically Correct Ass Outta Here!"

Further, Scooter's explicitly stated that restroom facilities would be denied to transgender customers by posting the following comment on Facebook: "Yes our signs says we do not have transgender restrooms. They just need to use the one that goes with the gender they were born with." This comment makes it clear that Scooter's would not allow transgender customers to use the restroom that match their manifested identity, thereby denying them access to restroom facilities altogether. Again, Scooter's is not being penalized for failure to comply with public accommodations law, but for unwelcoming communications in connection with the provision of public accommodations.

II. Although the ordinance does not penalize Scooter's for failure to comply with public accommodations law, Scooter's itself is not in full compliance with public accommodations law, where sex encompasses gender identity.

The Respondent claims that its restroom policy is in full compliance with Kentucky and Jefferson County law. The Respondent cites 815 KAR 20:191, which requires separate restroom facilities, and LMCO 92.05(c), which provides that a restaurant can restrict usage of restrooms

on the basis of sex. However, while the separation of restrooms remains lawful, the complete denial of facilities on the basis of sex would constitute impermissible sex discrimination. Further, Respondent neglects the fact that transgender status is inextricably bound up with sex in modern jurisprudence. *Bostock v. Clayton Cty., GA*, 140 U.S. 1731 (2020).

Courts have grappled with this issue in numerous contexts. Title IX forbids discrimination by educational institutions on the basis of sex. On May 13, 2016, the U.S. Department of Education and Justice provided guidance that the definition of “sex” under Title IX included gender identity. While the U.S. Department of Education withdrew this earlier guidance because it did not undergo a formal public process, courts have consistently held that adherence to biological definitions of sex does not permit discrimination against transgender individuals. Rather, such courts have held “that a policy that prohibits transgender students from using the bathroom matching their gender identity [separates] students on the basis of sex within the meaning of Title IX.” *Adams v. Sch. Bd.*, 318 F. Supp. 3d 1293, 1323 (M.D. Fla. 2018). *See also Grimm v. Gloucester City. Sch. Bd.*, 822 F.3d 709 (4th Cir. 2017), *vacated*, 137 S.Ct. 1239 (2017), *remanded* to 822 F.3d 709 (4th Cir. 2017); *Parents for Privacy v. Dallas Sch. Dist. No. 2*, 326 F. Supp. 3d 1075 (D. Or. 2018); *Evancho v. Pine-Richland Sch. Dist.*, 237 F. Supp. 3d 267 (W.D. Pa. 2017); and *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011).

In the employment context, Title VII of the Civil Rights Act of 1964 provides “it shall be an unlawful employment practice for an employer... to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual’s race, color, religion, *sex*, or national origin.” Courts have found that although opponents argue “that Title VII only prohibits discrimination based on biological sex, not gender identity... Title VII prohibits discrimination based on sex stereotypes, too.” *Roberts v. Clark*

Cnty. Sch. Dist., 215 F.Supp. 3d 1001, 1004 (D. Nev. 2016). In 2016, a transgender man was banned from both men’s and women’s restrooms. *Id.* at 1004-1008. The Nevada District Court granted summary judgment in his favor, holding that Title VII’s use of the word ‘sex’ encompassed protections for discrimination against gender identity. *Id.* at 1011-1018. Indeed, in *Bostock*, the Supreme Court held that “sex is necessarily a but-for cause” of discrimination on the basis of sexual orientation or gender identity. *Bostock*, 140 U.S. at 23. The Supreme Court explained their reasoning:

“[T]ake an employer who fires a transgender person who was identified as a male at birth but who now identifies as a female. If the employer retains an otherwise identical employee who was identified as female at birth, the employer intentionally penalizes a person identified as male at birth for traits or actions that it tolerates in an employee identified as female at birth... [T]he employee’s sex plays an unmistakable and impermissible role in the discharge decision.” *Id.* at 21.

While the Supreme Court has not reiterated this holding in public accommodations lawsuits, there is little doubt the precedent established in *Bostock* will persist and be extended. Thus, although Scooter’s may separate restroom facilities, Scooter’s may not deny use of those restroom facilities to transgender individuals without committing discrimination on the basis of sex.

III. Scooter’s sign is not constitutionally protected speech.

Scooter’s argues that LMCO § 92.05(B) is an unconstitutional, content-based regulation. Indeed, in *R.A.V. v. St. Paul*, 505 U.S. 377, 382 (1992), the Supreme Court declared content-based regulations presumptively invalid. In *Turner v. Broadcasting Systems v. Federal Communications Commission*, 512 U.S. 622, 641-642 (1994), the Court established that content-based restrictions must meet strict scrutiny. A government regulation is content-based if the law applies to a particular speech because of the topic discussed or the idea expressed. *Id.* at 644-646. See also *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). Here, LMCO § 92.05(B) cannot be

considered an unconstitutional, content-based regulation because the ordinance does not implicate communications based on the topic discussed or the idea expressed. Rather, the ordinance evenhandedly applies to communications which may cause negative secondary effects the city wishes to prevent. The City has a significant interest in maintaining a peaceful and welcoming environment for its citizens and, as the Court held in *Kovacs v. Cooper*, 366 U.S. 77 (1949), a city is not powerless to protect its citizens from unwanted exposure to certain methods of expression which may legitimately be deemed a public nuisance. Even if the ordinance were to be considered a content-based regulation, there are numerous exceptions that permit such regulation, including categories of less protected speech or unprotected speech, or content-based regulations that have a permissible content-neutral purpose or impose a constitutional time, place, and manner restriction.

A. Scooter's sign is not commercial speech entitled to First Amendment protection.

The Supreme court has identified some categories of less protected speech where the government has more latitude to regulate than usual under the First Amendment. Commercial speech is considered lower value speech because the underlying expression is largely transactional. However, in *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 760 (1976), the Supreme Court made it clear that commercial speech remains protected by the First Amendment. The Court held unconstitutional a Virginia statute that prohibited the advertisement of prescription drug prices, explaining the free flow of information actually protected the authenticity of commercial information. *Id.* at 761-766. However, the Court clarified this does not mean commercial speech can never be regulated - commercial speech only receives qualified protection. *Cent. Hudson Gas & Elec. Corp. v. Public*

Serv. Comm'n, 447 U.S. 557, 562-563 (1980).¹ While *Cent. Hudson*, 446 U.S. at 561, defined commercial speech as an “expression related solely to the economic interests of the speaker and its audience,” the Court relied upon various factors to define commercial speech in *Bolgers v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 66-68 (1983). The factors include: the form of the speech, whether or not it was economically motivated, and the function of the speech

Here, Scooter’s sign cannot be considered commercial speech entitled to qualified protection. While Scooter’s Triple B’s may consider its sign an important part of its branding during a time where many businesses take political and social stances, the sign cannot be considered *solely* related to the economic interests of Scooter’s and its patrons. Indeed, even if the sign motivates more customers to frequent Scooter’s because their sociopolitical beliefs align, that is not the sign’s sole purpose. Scooter’s admits in its Response to the Amended Complaint that the sign is a statement of opinion by Scooter’s and its owner on “a genuine, contentious, issue of debate in today’s society.” *Response to Amended Complaint*, p. 13. Even considering the less rigorous definition of commercial speech under *Bolgers*, the form of the speech suggests it was not economically motivated. Rather than appearing on an advertisement or flyer broadly distributed to the public, the statement was made on a sign located within the restaurant. Moreover, as stated above, Scooter’s itself admitted the sign was meant to be a political statement. In sum, Scooter’s sign cannot be considered commercial speech entitled to qualified protection.

¹ In *Cent. Hudson*, 446 U.S. at 563-565, the Court identified four types of commercial speech that remain subject to government regulation: (1) advertising of illegal activities; (2) false and deceptive advertising; (3) true advertising that inherently risks becoming false or deceptive; and, (4) advertising that is incompatible with legitimate policy goals, such as “enhancing the image of lawyers, decreasing consumption of alcohol or tobacco products, preventing panic selling of houses in neighborhoods, or decreasing gambling.” Said regulations must still meet rational basis review.

B. Scooter's sign is political speech

There is little disagreement that political speech is at the core of that protected by the First Amendment. Scooter's statements were plainly political in nature or, as Scooter's itself admitted in its Response to the Amended Complaint, "the statement of its opinion on a matter of public concern." *P. 14*. The HRC agrees that Scooter's speech is political speech, but that classification does not entitle the sign to more or less protection. Furthermore, it does not prevent Scooter's speech from falling into another category subject to government regulation. *See e.g. San Diego Committee against Registration & Draft (CARD) v. Governing Bd. of Grossmont Union High School Dist.*, 790 F.2d 1471 (1986).

C. Scooter's sign constitutes fighting words unprotected by the First Amendment.

The Supreme Court has also identified some categories of unprotected speech that the government can prohibit and punish. Fighting words is one category of unprotected speech. Fighting words may be (1) speech that is directed at another and likely to provoke a violent response; but also implicates situations (2) where a speaker may be punished because of the reaction of the audiences. In *Chaplinsky v. New Hampshire*, 316 U.S. 568, 572 (1942), the Court explained fighting words "are not an essential part of any exposition of ideas." Rather, such words have a direct tendency to cause of acts that would breach the peace. Thus, government action that restricts fighting words is generally considered constitutional, though the ordinance or statute must be narrowly drawn to "[implicate] expressions which by their very utterance inflict injury or tend to incite an immediate breach of peace." *Id. See also Gooding v. Wilson*, 405 U.S. 518 (1972).

Here, Scooter's sign plainly constitutes fighting words. Scooter's admitted that the sign was intended to be a political comment on "a genuine, and *contentious*, issue of debate in today's

society.” *Response to Amended Complaint*, p. 13. [Emphasis added]. Thus, Scooter’s knew that not only was the sign a political comment, but a highly controversial political comment in an incredibly charged debate. Furthermore, Scooter’s intent to inflame this debate was manifest when it engaged other Facebook users regarding its sign, commenting “Yes our signs says we do not have transgender restrooms. They just need to use the one that goes with the gender they were born with.” The sign, coupled with Scooter’s subsequent actions, demonstrates speech that was targeted at the LGBT+ community and likely to provoke a violent response. Indeed, this is the type of communication that the “Unwelcome Clause” implicates and the type of secondary effects it attempts to avoid. In sum, Scooter’s sign plainly constitutes fighting words unprotected by the First Amendment.

D. LMCO § 92.05(B) constitutes a reasonable time, place, and manner restriction targeting the secondary effects of unwelcoming speech at a place of public accommodation.

Content-based regulations are also upheld when the government demonstrates a permissible content-neutral purpose and/or impose a constitutional time, place, and manner restriction. *See, e. g., Heffron v. International Society for Krishna Consciousness, Inc.*, 452 U.S. 640, 647-648 (1981); *Schad v. Mount Ephraim*, 452 U.S. 61, 68-71 (1981); *Carey v. Brown*, 447 U.S., at 470-471 (1980); *Grayned v. City of Rockford*, 408 U.S. 104, 115-117 (1972); *Police Department of Chicago v. Mosley*, 408 U.S., at 98. In *Lehman v. City of Shaker Heights*, 418 U.S. 298, 316-321 (1974), the Court upheld a city’s prohibition of political advertisements on buses, stating that the city was entitled to protect unwilling viewers against intrusive advertising that may interfere with the city’s goal of making it buses “rapid, convenient, pleasant, and inexpensive.” The Court held “neutral regulations... can be narrowly tailored to allay the city’s fears.” *Id.* at 321. In *Heffron v. International Society for Krishna Consciousness*, 452 U.S. 640

(1981), the Court said such restrictions were permissible “provided they are justified without regard to the content of the speech, that they serve a significant government interest, and that they leave open ample alternative channels for communication.”

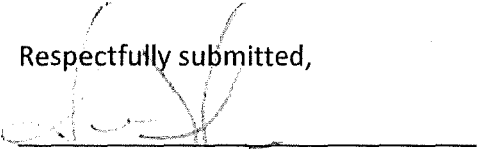
Here, LMCO § 92.05(B) does not implicate communications because of the social or political viewpoint they manifest. Rather, the “Unwelcome Clause” targets the type of communications that would cause fighting and disrupt the peace in places of public accommodation. The City has a significant interest in preserving a positive, welcoming commercial environment. Not only does this interest involve the economic livelihood of the City, but also the safety of citizens who wish to frequent its restaurants and businesses. LMCO § 92.05(B) does not prevent Scooter’s from making sociopolitical comments or engaging in sociopolitical debate, but it does prevent communications that would target protected classes of individuals and potentially cause disruption in the community. Thus, even if LMCO § 92.05(B) is considered a content-based regulation, it a content-based regulation that serve a permissible content-neutral purpose.

IV. Conclusion

Scooter’s Response to Amended Complaint misstates the Complaint of the HRC, incorrectly assumes that the lawful separation of restrooms permits sex discrimination, and wrongfully claims that its sign is protected under the First Amendment. Scooter’s has been implicated under LMCO § 92.05(B), which prohibits communications which indicate that public accommodations will be denied because of gender identity. Although Scooter’s may separate its restrooms on the basis of sex, Scooter’s may not withhold access to restroom facilities on the basis of sex, which encompasses withholding restroom facilities from transgender customers. Furthermore, Scooter’s sign does not constitute commercial speech, but political speech. At the

same time, Scooter's sign constitutes fighting words and poses serious secondary effects that threaten the peace and safety of the City of Louisville. While political speech is traditionally protected under the First Amendment, fighting words and speech that is restricted because of its secondary effects are excluded from First Amendment protection. In conclusion, Scooter's defenses and its motion to dismiss should be denied and the violation should be affirmed.

Respectfully submitted,



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EXHIBIT 5

I enjoy helping those looking for help and solutions to their problems. I began helping sexual abuse survivors, sex addicts, and same-sex attracted individuals in 1997. Then in May 2000, I started my master's degree, and I became a fully licensed counselor in 2006.

I specialize in grief and loss, abuse recovery, depression, sexual abuse, anger management, addictions, play therapy, co-dependency, anxiety, and post-traumatic stress. I am Certified in Dialectical Behavior Therapy and a Clinical Trauma Professional (CCTP).

As a Christian, I believe there are two genders, and that marriage is intended to be the union of one man to one woman. I want to help clients achieve their presenting goals, even if they don't align with the current cultural narrative regarding sexuality or gender fluidity. Therefore, I work with individuals who want to address their identity struggle or work through same-sex attraction according to biblical principles and to live their God-purposed lives. I counsel consistent with my religious beliefs and cannot promote or encourage anything that conflicts with those beliefs such as same-sex marriage, cohabitation, or sex outside of marriage. I also refer to clients using pronouns that match their sex because I believe it brings greater authenticity to the therapeutic process. I use a trauma-informed approach since confusion about gender or sexual orientation can be interwoven with other childhood experiences.

In addition, I speak fluent Spanish, which has allowed me to connect with the Hispanic culture and their needs and build a unique multicultural perspective.

EXHIBIT 6

What if you are not a Christian? (Counseling)

That's fine too. Not all my clients share my beliefs. So I look to them to determine how much or how little of my faith to explicitly integrate into a counseling session. At the same time, I provide counseling consistent with my Christian beliefs. This means, for example, I believe everyone is made in the image of God, God created humans to be male or female and that sex cannot be changed, and that marriage is meant to be between one man and one woman. I cannot provide counseling that communicates views or messages that contradict those beliefs (such as counseling that affirms a boy should be a girl or using a pronoun that is inconsistent with a client's sex). If my approach sounds right for you, I'd be happy to explore this in more detail with you in a free 15-minute phone call.

Current statement on counseling website

What if you are not a Christian?

I am, but I can still see you as a Licensed Professional Counselor. My personal faith is like a lens that I see the whole world through, including counseling. I can't help it. However, I can include Christian concepts as much, or as little, as you want in counseling. I am committed to not imposing my beliefs on you. Either way, I'd be happy to explore this with you in a free 15-minute phone call.

What if you are not a Christian? (Coaching)

Schedule a call. I'd be happy to explore whether my Christian Life Coaching is a good fit and I am willing to help anyone regardless of their religious beliefs. But please know that my Christian Life Coaching is designed to help clients achieve their goals related to the Christian faith. So I openly filter coaching through my traditional Christian beliefs. Those beliefs include that Jesus is real, he loves you, and he wants a real back-and-forth relationship with you. Also that the Bible contains our playbook on how we ought to live, and we lead our best lives only when we lean into the grace offered by Jesus Christ. If this might make you uncomfortable, I'd recommend my Professional Counseling Services.

Current statement on coaching website

What if you are not a Christian?

I am, but I can still see you as a Christian Life Coach. My personal faith is like a lens that I see the whole world through, especially Christian Life Coaching. I can't help it. However, Christian Life Coaching is about helping clients achieve their goals related to their Christian Life. Perhaps my [Professional Counseling Services](#) would be better for you. Either way, I'd be happy to explore this with you in a free 15-minute phone call.

EXHIBIT 7



Christian Life Coaching

As a Certified Life Coaching Practitioner, I work with individuals, couples, and groups. I began Coaching in 2013, when I offered my services to individuals through a local non-profit, and eventually created a Recovery Coaching program. I can meet with Christian Life Coaching clients in-person at my office in Kansas City, and in other states and countries through tele-coaching on a secure video platform.

If you would like a free 15-minute phone call to see if my Christian Life Coaching services are a good fit for you, click the button below.

[Schedule a Call](#)

What is Christian Life Coaching?

Coaching is a self-regulated field, so definitions of what coaching is can vary based on the coach, and the industry they coach within. Many people are familiar with sports coaching, but there are coaches for all kinds of things. Business coaching, executive coaching, performance coaching, and life coaching are popular kinds of coaching as well. I provide Christian Life Coaching in my practice. Christian Life Coaching is about seeing transformation in your Christian Life. We can talk about other areas of your life if you want, and you may even see some positive improvements in the rest of your life. I hope you do. However, in my Christian Life Coaching, the primary focus of our time will be seeking transformation in your Christian Life.



How does Christian Life Coaching Work?

In addition to careful and compassionate listening and making suggestions, much of my coaching consists in leading you through exercises in real-time. While I may suggest exercises to try on your own between sessions, the essence of my Christian Life Coaching is to be with you in the moment. This is not unlike how a sports coach might introduce a drill and provide guidance as an athlete performs it, so they can get the hang of it.

One of my favorite exercises is a method of prayer that helps clients experience the personal presence of God for themselves. This new for Christians who feel like they are, "just praying to the ceiling." Once connected, I can coach clients to interact directly with the Lord regarding where they want to see transformation in their Christian Life. I have found this simple method to result in surprising, even supernatural transformation. But, there are other exercises too.

How is Christian Life Coaching different from seeing a Pastor or a Licensed Professional Counselor?

Christian Life Coaching is different from pastoral ministry, mainly in that I, as your Coach, don't have pastoral authority over you. I can make suggestions for ideas to consider, or exercises to try, but you are ultimately responsible for whether or not you want to take me up on it. Christian Life Coaching is different from Licensed Counseling mainly in that it focuses on spiritual goals rather than other life goals.

It is in-line with what Jesus said in John 10:10:

"I have come that they may have life, and have it to the full."

Goals for Christian Life Coaching might include: wanting to have better sense of personal relationship with God, growing in your personal sense of calling and purpose in your Christian Life, having beliefs, desires, or emotional responses that are more in line with God's intended design for you, acting or behaving more in-line with God's will, living in relationship with others in a more Godly way, or living in victory over spiritual warfare. But there are many more. If your goal is unclear for you, I can help you clarify what you would like to achieve in your Christian Life.

It may be helpful to see comparison of how I see Licensed Counselors, Pastors, and my Christian Life Coaching differing in how they handle the goals, tools, and relationship they use in their work. This isn't all-inclusive or laser-precise, but I hope it helps paint a picture for you. If you have more questions I'd be happy to answer them in a free 15-minute phone call.



LICENSED COUNSELOR

Goals: mental health, relationship, wellness, and career goals.

Tools: Counseling Techniques, Therapeutic Modalities

Relationship: Licensed Expert

CHRISTIAN LIFE COACH

Goals: Transformation in Christian living

Tools: Counseling Techniques, Therapeutic Modalities

Relationship: Partnership of Equals

PASTOR

Goals: Salvation, Sanctification

Tools: Teaching, Shepherding

Relationship: Ordained Authority

What if you are not a Christian?

I am, but I can still see you as a Christian Life Coach. My personal faith is like a lens that I see the whole world through, especially Christian Life Coaching. I can't help it. However, Christian Life Coaching is about helping clients achieve their goals related to their Christian Life. Perhaps my [Professional Counseling Services](#) would be better for you. Either way, I'd be happy to explore this with you in a free 15-minute phone call.

Schedule a Call



JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

CIVIL COVER SHEET

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Western District of Missouri.

The completed cover sheet must be saved as a pdf document and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s):**First Listed Plaintiff:**

Wyatt Bury, LLC ;

County of Residence: Outside This District**Additional Plaintiff(s):**

d/b/a Hope and Healing Counseling, LLC Ballpark Investments, LLC ;

Wyatt Bury ;

Pamela Eisenreich ;

ex rel Missouri Attorney General Andrew Bailey State of Missouri ;

Defendant(s):**First Listed Defendant:**

City of Kansas City, Missouri ;

County of Residence: Outside This District**Additional Defendants(s):**

Jackson County, Missouri ;

County Where Claim For Relief Arose: Jackson County**Plaintiff's Attorney(s):**

Michael K Whitehead (Wyatt Bury, LLC)

Whitehead Law Firm, LLC

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Missouri Attorney General's Office

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Jefferson City, Missouri 65101

Phone: (573) 751-8870
Fax: (573) 751-0774
Email: Peter.Donohue@ago.mo.gov

Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 440 All Other Civil Rights

Cause of Action: 42 U.S.C. § 1983 violation of Plaintiffs' constitutional rights-First and Fourteenth Amendments to the United States Constitution

Requested in Complaint

Class Action: Not filed as a Class Action

Monetary Demand (in Thousands):

Jury Demand: Yes

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: Michael K. Whitehead

Date: 2/7/2025

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.

**Wyatt Bury, LLC; Ballpark Investments LLC d/b/a Hope and Healing
Counseling; Wyatt Bury; Pamela Eisenreich; and State of Missouri *ex rel.*
Missouri Attorney General Andrew Bailey,
Plaintiffs,**

v.

**City of Kansas City, Missouri, and Jackson County, Missouri,
Defendants**

Attorneys of Record for Plaintiffs

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**Pending Admission Pro Hac Vice*